Response to the CQC's consultations on its draft strategy and proposals on changes for flexible regulation

March 2021

1. Introduction

1.1 The Professional Standards Authority for Health and Social Care promotes the health, safety and wellbeing of patients, service users and the public by raising standards of regulation and registration of people working in health and care. We are an independent body, accountable to the UK Parliament. More information about our work and the approach we take is available at www.professionalstandards.org.uk

1.2 As part of our work we:

- Oversee the ten health and care professional regulators and report annually to Parliament on their performance
- Accredit registers of healthcare practitioners working in occupations not regulated by law through the Accredited Registers programme
- Conduct research and advise the four UK governments on improvements in regulation
- Promote right-touch regulation and publish papers on regulatory policy and practice.

2. General comments

2.1 We welcome the opportunity to comment on the CQC's draft new strategy and proposals on changes for flexible regulation. We have considered both consultations together. We offer some general comments below but have not responded to individual consultation questions.

Lessons learned from the pandemic

2.2 The Covid-19 pandemic has caused significant disruption to health and social care services, the health and care workforce, and patients and the public. This has demanded flexibility and innovation from regulatory systems at a time of great pressure – and this has been the case for regulators of services and professionals alike. We support CQC's ambitions to transform its approach based on its learnings from the pandemic and in response to wider changes within health and social care, to be a dynamic, proportionate and flexible regulator. The Authority is currently undertaking a preliminary lessons learned review considering professional regulators' responses to the pandemic and would be happy to share relevant findings when these are published.

Collaboration with professional regulators

2.3 Government has stated its intention to reform the framework for professional regulation in the UK, which we understand is forthcoming. It has also stated its desire for agile regulation and better collaboration with the wider system[1] and further proposals for reform were outlined in the recent *Integration and Innovation* White Paper[2]. We have previously said that reforming professional regulation will have ramifications for system regulators and the organisations that deliver care, amongst many others[3]. Research and inquiries have shown that safety and quality of care depends both upon the people providing it – and the places in which they work. Poor practice in one affects the other. Patient safety inquiries have repeatedly found that the regulatory landscape is fragmented and disjointed, and that patient harm results from gaps in an overly complex system[4]. For this reason, system and professional regulation should be re-engineered as an inter-connected and mutually reinforcing patient safety and quality system. We would be happy to discuss this further.

2.4 We note that there appears to be no specific mention in the strategy of how the CQC will work with professional regulators in the future.

2.5 We recognise that the consultation was launched before the publication of the recent White Paper[5]. In light of this, the CQC may wish to consider adapting its strategy and ways of working with professional regulators and other patient safety bodies into the future, to ensure that regulation creates an effective safety net and remains effective, efficient and adaptable for years to come.

Information sharing

2.6 We welcome the commitment to use information from other sources and share information through data-sharing agreements (Strategy, page 13). The emerging concerns protocol, signed and shared by the CQC and a number of the professional regulators and Ombudsman, is an example of an initiative which encourages collaboration and the sharing of 'soft' intelligence as a means to promoting more agile and effective regulation. We note that the protocol does not appear to be referenced within either document but understand that it has recently been reviewed as part of an evaluation of the wider quality surveillance programme. We hope to see more detail in time about how working with the emerging concerns protocol and similar initiatives will form part of the CQC's future strategy and approach.

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[1] See the section on professional regulation within the Government's response to its *Busting Bureaucracy* consultation: https://www.gov.uk/government/consultations/reducing-bureaucracy-in-the-health-and-social-care-system-call-for-evidence/outcome/busting-bureaucracy-empowering-frontline-staff-by-reducing-excess-bureaucracy-in-the-health-and-care-system-in-england

[2] DHSC (2021) *Integration and Innovation*:https://www.gov.uk/government/publications/working-together-to-improve-health-and-social-care-for-all

[3] Professional Standards Authority (2015) *Rethinking Regulation*. Available at: https://www.professionalstandards.org.uk/docs/default-source/publications/thought-paper/rethinking-regulation-2015.pdf?sfvrsn=edf77f20_18

[4] For example, the Independent Medicines and Medical Devices Safety Review (2020) and the Paterson Inquiry (2020).

[5] DHSC (2021) *Integration and Innovation*: https://www.gov.uk/government/publications/working-together-to-improve-health-and-social-care-for-all

2.7 The CQC might also wish to consider developing information-sharing relationships with Accredited Registers. These organisations register health and social care practitioners who are not regulated by law, covering diverse areas such as acupuncture, non-surgical cosmetic treatments, and counselling and psychotherapy.

2.8 Many registers have registrants who work closely alongside professionals regulated by law. Some Accredited Register practitioners work across multiple professions and are also registered with a statutory regulator, such as doctors who practise non-surgical cosmetics. This makes them well placed to help identify risks. We think it is important that intelligence from those who work within the health and social care system is not limited to those who are regulated by law.

2.9 We note that the draft strategy does not include any mention of how the CQC might work with its equivalents in the other three countries of the UK to ensure appropriate information sharing and a joined-up approach to patient safety more generally.

Addressing inequalities

2.10 We welcome the commitment to work with other system partners and regulators to develop a shared understanding of the factors that contribute to inequalities (Strategy, page 10). The unequal impact of Covid-19 on ethnic minority groups has put a spotlight on entrenched health inequalities in the UK population. It has also highlighted inequalities within the health and social care workforce, where the application of individual risk assessments have been inconsistent despite evidence of higher risk to particular groups. We note that looking at how services and local systems are acting to reduce inequalities is a core ambition of the new strategy, and suggest it might be worth considering how these inequalities play out within health and care service providers and their staff, as well as in the general population.

3. Further information

3.1 Please get in touch if you would like to discuss any aspect of this response in further detail. You can contact us at:

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