

CQC Consultation – ‘Our next phase of regulation’

Significant changes to the regulation of adult social care services

The CQC Consultation proposes wide-ranging reforms: some of which impact on all regulated services, alongside specific proposals on the regulatory approach for primary medical services and adult social care.

This bulletin addresses:

Part 2.2 of the Consultation - ‘**Adult Social Care Services**’

Impacts on: **all providers of adult social care**

Key points:

The CQC’s proposals on adult social care would result in some significant changes to the way providers are regulated. The CQC says that its proposed changes are designed to produce a more proportionate, targeted and responsive approach. CQC will be taking a greater overview of providers of multiple locations, sharing more information with CCGs and local authorities and focusing its enforcement powers on services rated as ‘Requires improvement’ which are failing to improve their rating.

The proposals cover four main areas:

Monitoring:

The main shift being proposed by the CQC is to the collection of live information from providers on an ongoing basis via an online system. This could represent a good opportunity for proactive providers to update the regulator about positive developments and present a more comprehensive picture of their services.

The ‘CQC Insight’ model will help the regulator to generate richer datasets about adult social care services enabling comparisons of performance between services, and over time.

CQC also proposes to develop clearer and more consistent engagement with local authorities and CCGs commissioning adult social care services.

CQC will use the information that the new monitoring system generates to inform how they inspect and regulate the sector going forward.



They are fantastic - extremely accommodating, even at short notice, approachable, consistent and commercial. Also very pragmatic when we need them to be.

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Inspection:

Now CQC has completed its first inspection cycle of adult social care providers, it has a baseline from which to work. Under the consultation proposals, there will be a change in the frequency and type of future inspections. For comprehensive inspections, the minimum frequency for those rated 'Good' or 'Outstanding' will change from 2 to 2.5 years and from 2 to 3 years respectively. The minimum frequency will not change, however, for those rated 'Requires improvement' or 'Inadequate' (1 year and 6 months respectively).

In future it is proposed that focused inspections will always include an assessment of whether a service is well-led; another example of the theme of increased focus on accountability of leadership that we have noted in previous bulletins in this series. A proposed new toolkit for homecare will help inspectors to better understand and regulate these services.

Additionally, CQC is proposing that, regardless of when it carries out a focused inspection, the result can lead to a change of rating for the service. Previously, ratings could only change if the focused inspection was carried out within 6 months of a comprehensive inspection. This could be positive news for those providers who may previously have been stuck with an overall 'Requires improvement' or 'Inadequate' rating despite subsequent improvements having been made.

Reporting:

CQC's aim is for its reports to be shorter, clearer and more informative. But, under the proposals, reports will also include information about the previous inspection history of a service and the quality of other services provided by that provider. One of the aims is to prevent organisations 'wiping away' inspection histories by intra-group transfers – again, underlining the theme of extending accountability across corporate entities. It is not clear, however, whether CQC intend to provide the previous inspection history even when a service has been taken over by a new provider outside of the group in a wholly 'arms length' transaction.

Enforcement:

The new proposed enforcement regime would be tougher in relation to services repeatedly rated as 'Requires improvement' – with action taken for breaches of Regulation 17 (Good Governance) as part of a failure to be Well-Led. After two 'Requires improvement' ratings in a row, the service will need to devise an action plan that has the approval of the service's commissioners. If there is a third consecutive 'Requires improvement' rating, CQC will consider the potential use of enforcement powers. This appears to be akin to the Special Measures regime in place already for services rated Inadequate. With over a fifth (21%) of adult social care services currently rated 'Requires improvement', a large number of service providers could be affected by this.

As part of the theme of wider accountability, CQC is also proposing to take enforcement action at a Group level if they find issues affecting more than one service.

Another potentially significant proposal is that the CQC is looking to change how they publicise enforcement. CQC propose a legal change to enable publication of enforcement action they are taking even if that action is subject to ongoing challenge by the provider; this could have significant negative impacts on trading and reputation even when they are still fighting a case.



Without exception I have always found them to be responsive and reassuring in their advice.

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Current Position

- Periodic Provider Information Returns
- Relatively little data about adult social care
- Minimum inspection frequencies set depending on the service rating
- Focused inspections can only result in rating change if carried out within 6 months of a comprehensive inspection
- CQC's reports do not include a previous inspection history
- Special Measures type regime only for services rated Inadequate
- Enforcement action tends to be at location level
- Enforcement action only publicised at conclusion of process

Consultation Proposals

- Provider information collection ongoing, but once a year minimum
- Increasing data sets available for comparison between services and over time
- Minimum inspection frequency will increase for Good or Outstanding services
- Focused inspections will always include 'Well-led' and can lead to a rating change at any time
- Reports will include previous inspection history and information on the quality of other services run by that provider
- 'Special Measures'-type regime for 'Requires improvement' services
- Possibility of enforcement action at Group level
- Enforcement to be publicised even if the provider is still disputing the case

Points for providers to consider

- How will we manage ongoing information provision; do we welcome it?
- Are the proposed changes to minimum inspection frequency welcome?
- Is the potential for a focused inspection to result in a rating change at any time an opportunity or a threat?
- Are we ready for wider accountability across the Group for service quality and for previous inspection history to be published?
- Is the tougher regime for 'Requires improvement' services likely to affect us?
- What would the commercial and operational implications of publicising enforcement action even if it was being disputed?

There is a lot of detail in the Consultation and not a lot of time to respond – the consultation closes on 8 August 2017. It is important that providers study the proposals closely and make sure their voice is heard on what is being proposed. Bevan Brittan is hosting a consultation event with CQC on 26 July 2017 (in London) – [click here](#) to register for the event; the event will have a particular focus on the adult social care sector, but all providers are welcome to attend.

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For more information about the support we provide please contact:



VINCENT BUSCEMI

Partner

0370 194 3016 | 07917 602217
vincent.buscemi@bevanbrittan.com



STUART MARCHANT

Partner

0370 194 7712 | 07872 931326
stuart.marchant@bevanbrittan.com



JODIE SINCLAIR

Partner

0370 194 7890 | 07788 561498
jodie.sinclair@bevanbrittan.com



CARLTON SADLER

Senior Associate

0370 194 1633 | 07780 998188
carlton.sadler@bevanbrittan.com