Consultation Response

Care Quality Commission and NHS Improvement: Consultation on Use of Resources and Well-led Assessments

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Age UK is the country's largest charity dedicated to helping everyone make the most of later life. The Age UK network comprises of around 150 local Age UKs reaching most of England. Each year we provide Information and Advice to around 5 million people through web based and written materials and individual enquiries by telephone, letters, emails and face to face sessions. We work closely with Age Cymru, Age NI and Age Scotland. Local Age UKs are active in supporting and advising older people and their families in the care market.

About this consultation

This consultation, issued jointly by the Care Quality Commission (CQC) and NHS Improvement, concerns the assessment of NHS trusts and in particular their use of resources and leadership assessments. CQC and NHS Improvement have differing roles in assessing NHS trusts. CQC ensures that regulated services meet fundamental standards of quality and safety, whilst NHS Improvement oversees NHS foundation trusts, NHS trusts and independent providers, forming views of their support needs in areas such as quality, operational performance, finance and use of resources, and helping to ensure these organisations are financially sustainable.

CQC has simultaneously issued a consultation on their 'Next Phase of Regulation' which includes a section on the regulation of NHS trusts. Age UK has submitted a separate response to that consultation.

Key proposals from CQC and NHS Improvement

This consultation outlines joint proposals from CQC and NHS Improvement around use of resources and well-led assessments, which the two organisations plan to utilise in their regulatory and oversight activities.

In particular, and this is the focus of Age UK's response, this consultation sets out joint plans for ensuring that effective use of resources is seen as fundamental to high-quality, safe services. To this end, the consultation proposes including the assessment of trusts' use of resources as part of CQC's overall OFSTED-style trust-level ratings, starting with acute trusts. This consultation also proposes two main ways of achieving this (for acute trusts initially):

- Firstly, by adding a sixth question about use of resources to the five key questions that CQC currently considers to determine an overall trust-level rating (the other five are assessing whether services are safe, effective, caring, responsive and well-led);
- Secondly, combining safe, effective, caring and responsive questions under a single 'quality' heading, with 'leadership' (similar to well-led) and 'use of resources' being two further headings.

These two approaches might lead to different weightings as in the latter proposal use of resources is one of three headings rather than one of six.

It is also noted that responsibility for, and ownership of, service ratings will remain legally with CQC and reflect the regulator's final judgement.

Age UK's response

Age UK's view is that whilst closer working between CQC and NHS Improvement is thoroughly welcome, we would not want this to lead to any dilution of our system's assessment and regulation of quality, or to any weakening of CQC's main duty to ensure that the health and social care which people receive is safe and of good quality.

The role of CQC is set out in legislation, the Health and Social Care Act 2008. This Act states that 'the main objective of the Commission in performing its functions is to protect and promote the health, safety and welfare of people who use health and social care services'[i].

CQC must also perform its functions for the general purpose of encouraging the efficient and effective use of resources in the provision of health and social care services[ii]. In our view, this latter requirement would seem to fall short of 'having regard to' the use of resources in defining quality itself, which is suggested in the consultation document. This may be an important distinction, given the discussion below which is primarily around the extent to which CQC assessments and ratings of services should take account of effective and efficient use of resources.

In assessing quality, CQC takes into account both current quality, and risks to the service in being able to continue to sustain this level of quality. Lack of adequate financial management and systems for future financial planning are amongst these risks, so we

have argued, in responding to CQC's 'Next Phase of Regulation' consultation, that assessment of these aspects of management should be considered as part of whether services are 'well led'. In this respect we are in agreement with CQC's proposals around the new single well-led assessment framework.

However, effective use of resources is a means to an end, the end being CQC's remit of protecting and promoting the health, safety and welfare of service users. We agree with this consultation's statements that 'how effectively a provider uses its resources is one of the factors that determines the quality and responsiveness of its care' and 'use of resources is fundamental to enable health and care providers to deliver and sustain high quality, including safe, services for patients'. Indeed, both of these statements distinguish between means and ends, and treat use of resources as a means of achieving quality, rather than as part of what ultimately constitutes it. Yet this consultation seems to then argue for use of resources as part of the definition of quality, with it becoming a core component of CQC ratings.

We strongly disagree with this as in our view quality ratings should be objective and independent of resource considerations. Service users and their families expect that a service with an 'outstanding' rating will be outstanding, not outstanding considering its miserably limited resources.

In fact the extent to which a service is ultimately sustainable may not be directly related to the quality of financial management. A service may have exemplary financial controls but still be at risk of failure if it depends on public funding which is diminishing, and it has no way to match availability of funding to the level of demand. A service that is in this situation should not be viewed as being of poor quality, as the problem lies with the commissioning process. Conversely, a lavishly funded service might achieve high quality but offer poor value for money. In this situation, we would still expect a CQC rating to acknowledge the fact that the service is good rather than reducing its rating due to poor value or high unit cost. Likewise, if a service is forced to cut quality in response to a mismatch between demand and funding then we would expect CQC to record that this is happening.

On the whole, we are concerned that the combination of use of resources and quality ratings within CQC overall trust-level ratings might be watering down the idea of what good quality care is. This risks undermining the public's confidence in the judgements made by the regulator charged with assessing quality, as a result of elevating financial considerations to what we would view as an unreasonable degree. Under the current

proposals, we fear a situation where a service could easily achieve a higher overall rating for making a very efficient use of its resources whilst it is otherwise cutting the quality of the service, which would potentially bring the system into disrepute. Surely this is in no one's interests.

Age UK's view is that it is important that the quality of all services is measured by the same yardstick, regardless of demand or financial pressures, otherwise it will become unclear what is meant by quality and CQC judgments about quality will not command public confidence. It will also be more difficult to link variations in quality to factors such as demand and financial resources.

Equally, at a time of mounting pressures on our health and social care system, in Age UK's view it is vital that CQC retains its role of providing an independent and reliable assessment of quality that makes it clear, particularly to service users and their families, what the quality of a service actually is. For this reason we believe that NHS Improvement must distinguish between their own assessment that takes account of financial resources, and the overall quality rating which is awarded and legally owned by CQC.

Therefore, our conclusions are that:

- Assessment of a service's financial management capabilities should be part of the assessment of quality, pertaining specifically as to whether the service is well-led.

- However assessment of whether these capabilities result in a financially sustainable service is not solely due to the quality of the service, but may be influenced by other factors too. Therefore we think the CQC rating must continue to be about quality as experienced by the service user, and not about other aspects of performance such as value for money.

- If value for money and factors such as the unit cost of the service are to be taken into account, then they should form part of a wider performance rating of which quality is just one aspect. This should be clearly distinguishable from any CQC rating to reduce the risks of confusion on the part of the public.

- We therefore do not think the two assessments should be brought together into a single rating.

- CQC quality ratings must continue to provide a clear and undiluted definition of quality that services users and their families can rely on to make informed decision about their health and care, regardless of the broader context in terms of resources.

- Indeed, at a time when the health and care system is under extreme pressure, older people and their families desperately need CQC to hold firm in making assessments of quality based on objective measures; any other approach would not serve older people and their families well, and also risks seriously undermining the credibility of CQC as an independent regulator in whom the public can safely place their trust.

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[i] Health and Social Care Act 2008 s. 3(1) http://www.legislation.gov.uk/ukpga/2008/14/pdfs/ukpga_20080014_en.pdf

[ii] Ibid s.3 (2) c