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CQC's Future Strategy – Have Your Say!



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CQC's formal consultation on its new five-year strategy opened on 7 January 2021 and will close eight weeks later on 4 March 2021. It is your opportunity to have your say and raise any potential concerns. The draft strategy can be found [here](#).

We have summarised the main points below under CQC's four themes and have set out our immediate views. However, we would encourage providers to read the consultation in full and to respond if they wish to.

People and communities

- CQC intends to focus on encouraging feedback from people who use services and will ensure that services encourage and enable people to speak up.

This appears to be a continuation of CQC's approach at the start of the pandemic and whilst the views of people who use services are crucial, it must be borne in mind that there can be a number of motives for providing feedback, which can unfairly damage a provider's reputation or cause a conclusion to be reached by the regulator, which may be unfair or unfounded. For example, disgruntled employees can cause untold damage by raising malicious and anonymous whistleblowing concerns and in our experience, these are not always treated in the manner they should be by CQC or other organisations. In any event, such concerns often have to be investigated and this in itself can lead to a significant loss on the part of the provider. If there is to be increased focus on people's feedback, to ensure fairness to providers, CQC will need to ensure that any regulatory judgment made as a result is also supported by other clear evidence.

Smarter regulation

- CQC intends to move away from a set schedule of inspections and use other methods to assess quality. It is intended that inspectors will have a "regular view of the services they manage, based on their continuous knowledge and not on a particular date in the calendar". This will include people's feedback,

provider's own self-assurance, as well as targeted inspections. It is therefore intended that ratings will be updated more frequently as a result.

- CQC is proposing to expand its definition of what it considers to be a provider of care and "what it means to carry on a regulated activity". It is proposed that all parts of an organisation that are responsible for directing or controlling care will be registered so that they can all be held accountable by CQC.
- There is intended to be a move away from long reports following inspections.

There are a number of points of note and potential concern under this theme, most notably CQC's intention to expand registration to include those responsible for directing and controlling care. This was a proposal first made by CQC in 2017 but it was not progressed or implemented by CQC at that time. Further details will be needed as to how CQC will determine which entity is directing and controlling care. However, it is understood that this is likely to apply to unregistered parent companies.

In respect of ratings, in some situations it will be beneficial for ratings to be updated more frequently e.g. if your service has been rated 'inadequate' or 'requires improvement', that rating can stay in place for a lengthy period even after significant improvements have been made. However, it is of concern if ratings will be changed frequently in response to discrete issues or unfairly based on an isolated incident (e.g. if an unfortunate incident occurs, resulting in a safeguarding investigation). It is not currently clear under what circumstances a rating would be changed and thus we would raise some concerns if there is a chance that these may be changed on the basis of incomplete or inaccurate information. It is also unlikely to be helpful to the public if ratings are significantly changing in response to discrete information received.

Safety through learning

- Safety will be of greater focus and there appears to be more focus on supporting providers i.e. by providing "a definition and language that explains what we mean by safe care and how this could apply in different services". There is a suggestion that enforcement action will follow if improvement takes too long or if the change is not sustainable.

Again, there is a lack of clarity as to how this aim will be achieved and it remains to be seen how supportive the regulator will be in practice. In our experience, simple accidents, particularly those with very serious or unforeseen consequences are often taken out of proportion and can result in unfair and inappropriate criticism by CQC and other organisations. Clearer definitions of safe care may therefore be of assistance but it again remains to be seen how helpful these will be in practice.

Accelerating improvement

- “What is good today won’t be good enough in the near future”
- CQC will be clearer on the standards it expects

As in CQC’s previous strategies, there is always a focus on continual improvement. This is welcomed but does put providers in situations where they cannot always achieve a favourable rating due to circumstances beyond their control. For example, those providers who predominantly care for individuals funded by the state may find it more difficult to achieve an outstanding rating due to the gross lack of funding in the sector.

In all, our view is that the strategy is ambitious but lacks substance in a number of areas making it unclear how a number of aims will be fulfilled. For example, it is unclear how “ratings will reflect how people experience care” whilst also ensuring that fairness is afforded to the provider. There is also reference to points that have been raised previously, e.g. ensuring that CQC is consistent and that “good means good wherever [you] are in the country” but again, it is unclear how this is to be achieved as it is quite clear to us that CQC’s lack of consistency still remains a significant concern.

We would encourage providers to read the strategy in full and submit any comments by the deadline. We have simply summarised some extracts from the strategy above and set out some of our preliminary thoughts but CQC’s future strategy will have a significant impact on providers and it is worth taking the time to comment if you can.

Our CQC lawyers specialise in advising on CQC compliance and representing care providers. If you are having difficulties with CQC, please contact us on 01202 786135 or email online.enquiries@LA-law.com to discuss how we can help you.