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The Care Quality Commission: Regulating the quality and safety of health and adult social care

Summary

1 The Care Quality Commission (the Commission) is the independent regulator of health and adult social care services in England. Its objective is to protect and promote the health, safety and welfare of people who use these services. The Commission is a non-departmental public body, overseen by the Department of Health (the Department). In 2010-11, its spending was £139 million, funded by grant-in-aid and fees paid by health and social care providers.

2 The Commission was established under the Health and Social Care Act 2008 and began operating on 1 April 2009. It brought together three predecessor organisations – the Healthcare Commission, the Commission for Social Care Inspection and the Mental Health Act Commission. In 2009-10, the Commission ran the three previous regulatory systems while developing its own new system. From April 2010, it began operating using its new powers, set out in the Health and Social Care Act 2008.

3 The Commission regulates health and adult social care through its 'quality and safety assurance' work, which comprises:

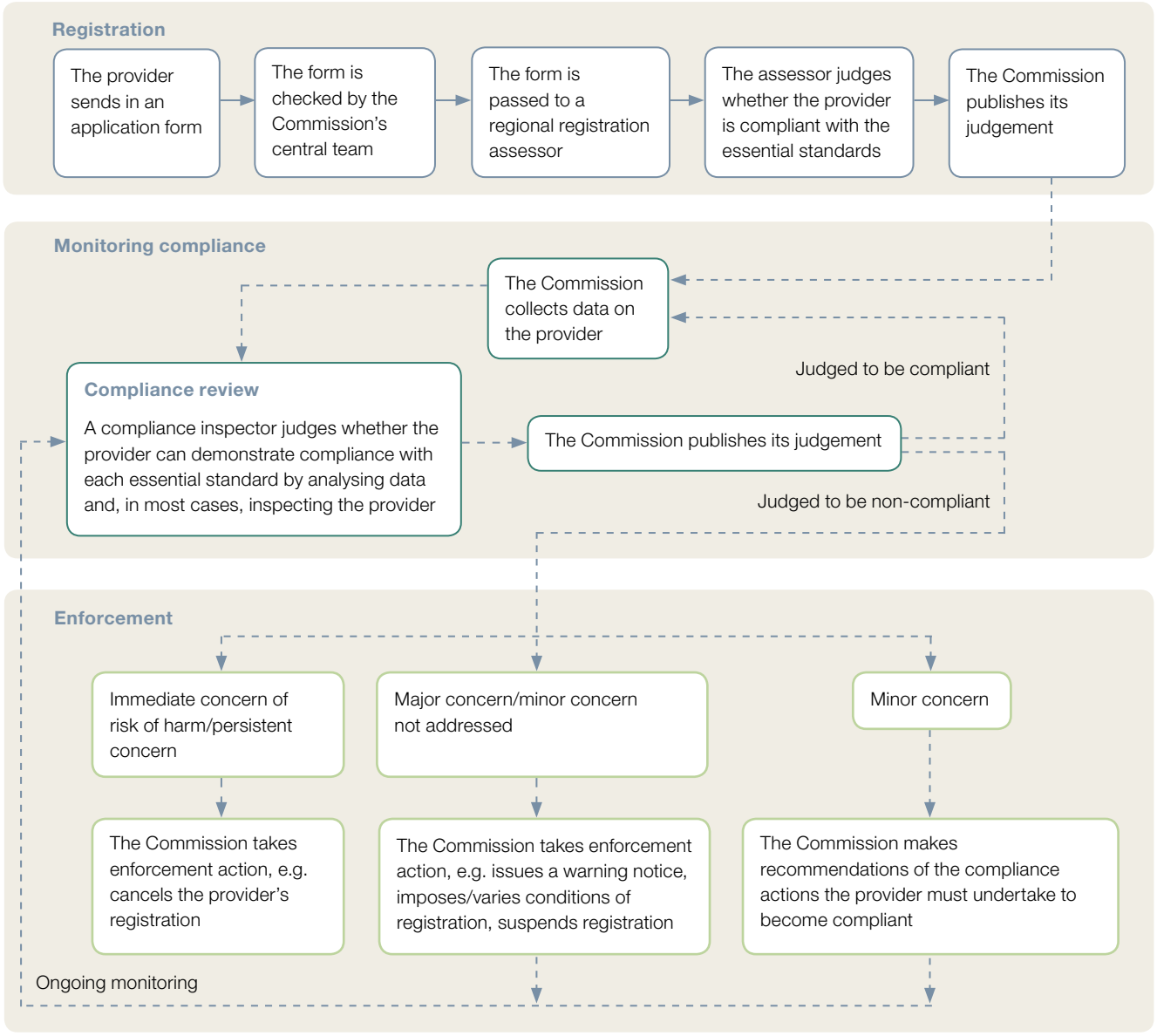
- registering providers against 16 essential standards of quality and safety (Appendix One);
- checking registered providers are complying with the essential standards, including by carrying out inspections;
- taking enforcement action against providers where services fail to meet the essential standards; and
- carrying out special reviews of particular aspects of care, and investigations where concerns about quality have been identified.

Figure 1 overleaf outlines the Commission's regulatory model.

4 This report examines how the Commission has used its resources in carrying out its quality and safety assurance work. Our methodology is summarised in Appendix Two.

5 The Commission also has a number of other statutory functions including visiting patients whose rights are restricted under mental health legislation and publishing information about the services it regulates to drive choice and improvement. These functions are not covered by this report.

Figure 1
Regulating health and adult social care



Source: National Audit Office

6 The role of the Commission in regulating health and adult social care has been the subject of considerable public interest in the past six months because of:

- a BBC *Panorama* programme in May 2011, which exposed serious abuse of patients by staff at Winterbourne View, a residential hospital for people with learning disabilities (Appendix Three);
- the winding-up in July 2011 of Southern Cross, previously the largest care home provider in the UK, with a total of 31,000 residents in 750 homes;
- the Mid-Staffordshire NHS Foundation Trust public inquiry, which is examining the role of the commissioning, supervisory and regulatory bodies in the monitoring of this Trust; and
- the Commission's national report on dignity and nutrition in NHS hospitals, and its investigation report on Barking, Havering and Redbridge NHS Trust, both published in October 2011.

Key findings

7 **The regulators for health and adult social care have been subject to considerable change in the last ten years.** The Commission is the third regulator for each sector, although it is the first to cover both health and social care providers. The changes have created disruption for providers and confusion for the public.

8 **The proposal to extend the Commission's role into new areas risks distracting the Commission from its core work of regulating health and adult social care.** The Department proposes that the Commission should take on a variety of additional responsibilities, such as overseeing fertility clinics and responsibility for HealthWatch England, the national consumer body for health and social care.

9 **There is a gap between what the public and providers expect of the Commission and what it can achieve as a regulator.** Although the Commission's role is clearly defined, it has changed over time and has not always been communicated effectively. The Commission has also not made clear what success in delivering its priorities would look like. The Commission's improved website aims to address this expectation gap by setting out more clearly what the public and providers can expect from the Commission.

10 **The Commission's budget is less than the combined budget of its predecessor bodies, although it has more responsibilities.** The budget for health and adult social care regulation fell from £175 million in 2008-09 to £164 million in 2010-11, a reduction of 6 per cent.

11 Responsibility for funding the regulation of health and adult social care is falling increasingly on the providers of these services rather than the Department. The Commission is moving towards full cost recovery and the proportion of its spending covered by fees increased from 34 per cent in 2009-10 to 58 per cent in 2010-11. The grant-in-aid given by the Department has fallen considerably – by 49 per cent between 2009-10 and 2011-12, although 11 per cent of the fall is accounted for by the inclusion of funding for transitional costs in 2009-10.

12 The Commission underspent against its budget for 2009-10 and 2010-11, partly because it had a significant number of staff vacancies. At the end of September 2011, 14 per cent of staff positions were vacant, of which 40 per cent were registration assessor and compliance inspector posts. The Commission has been unable to fill vacancies promptly and was subject to the government-wide recruitment constraints, which meant it needed the Department's approval to recruit new staff.

13 The timetable for registering health and adult social care providers, set by the Department, did not allow time for the registration process to be tested properly and the process has not run smoothly. Although 21,600 organisations are currently registered, the timetable for two out of three tranches of providers was not met. Providers were critical of the registration process and the Commission's initial processing arrangements were inefficient.

14 The Commission is seeking to learn lessons for the registration of GP practices, which has been deferred by a year. The postponement has allowed the Commission time to engage with GPs at an early stage, streamline the application process, and develop online services to make registration quicker and more efficient.

15 Compliance review and inspection work fell significantly during 2009-10 and 2010-11. The Commission completed only 47 per cent of the planned number of reviews between October 2010 and March 2011. The reduction in compliance activity was due to the Commission deciding to prioritise registration over compliance, as it diverted resources in a bid to meet the statutory timetable for registration. Levels of compliance activity were also adversely affected by the number of inspector vacancies. Compliance work is now increasing and, in the light of the Winterbourne View case, the Commission is proposing to inspect NHS, independent healthcare and adult social care providers at least once a year from April 2012.

16 The Commission has a systematic approach to assessing the risk that providers are not meeting the essential standards of quality and safety, but it depends on good quality information which is not always available. The 'quality and risk profiles' for adult social care contain on average only a tenth of the data items of the profiles for the NHS. Concerns have also been raised that some compliance inspectors do not have the expertise to assess risk effectively and that differences in approach are leading to inconsistency.

17 The Commission has strengthened its whistleblowing arrangements in the light of the Winterbourne View case. Whistleblowing concerns are monitored to make sure they are followed up and the information provided is included in regional risk registers. The registers list providers where 'major concerns' have been identified; in November 2011, the Commission had major concerns about 407 providers, 94 per cent of whom were adult social care providers.

18 The Commission's performance management is constrained by gaps in data and reporting is mainly against quantity-based measures of activity. There are a small number of time-related measures but no quality or outcome indicators for regulating health and adult social care. The Commission has established a project to improve its management information.

Conclusion on value for money

19 The Commission had a challenging task in merging three former regulators to establish a new organisation and in implementing a new regulatory approach, which integrates health and social care, at a time of diminishing resources. It was inevitable that there would be some transitional difficulties and that it would take time for the Commission to settle down into a steady state. In the event the difficulties were considerable.

20 The ultimate measure of the Commission's value for money is the impact of regulation on the quality and safety of care, relative to the cost. In the absence of measures of impact, we assessed value for money in terms of whether the Commission delivered what it set out to deliver in its quality and safety assurance work. With the exception of NHS trusts, the Commission did not meet the deadlines set for registering providers; at the same time, levels of compliance and inspection activity fell significantly, although the Commission was hampered by government-wide recruitment constraints which made it difficult to fill vacancies quickly. We therefore conclude that, although regulation is being delivered more cheaply, the Commission has not so far achieved value for money in regulating the quality and safety of health and adult social care. It is not clear to us exactly where the balance of responsibility lies between the Commission and the Department for failing to achieve value for money, but it is clear that responsibility is shared.

Recommendations

21 The Commission has begun to take steps to improve performance and address some of the issues highlighted in this report. Our recommendations are designed to reinforce these actions and more generally help the Commission deliver better value for money in regulating health and adult social care.

a The Commission has not made clear what success in delivering its priorities would look like. Together with the Department, the Commission should define, as far as possible in measurable terms, the outcomes it wants to achieve in regulating health and adult social care, against which progress can be measured. The Commission could also use its networks of representatives of providers and the public in this exercise, which would help bridge the expectation gap.

b **There are shortcomings in the Commission's performance management arrangements.** In particular, the Commission needs to:

- develop performance measures that go beyond the current largely activity-based indicators to cover issues of quality, cost and timeliness;
- address gaps in performance data, in particular by collecting data on the types of enforcement action taken and the timescales; and
- report more performance information to the public, including on the impact of enforcement action, which will help the Commission demonstrate its effectiveness and provide reassurance to the public.

c **Registering GP practices will be a key test for the Commission next year.** Drawing on lessons from previous registrations, the Commission should develop a detailed plan which specifies key milestones and resourcing requirements. The Department and the Commission should review progress regularly so timely decisions, such as whether resources should be diverted from other work, can be taken if GP registration does not go to plan.

d **The Commission's compliance inspectors need better support and information to help them make sound, consistent judgements.** The Commission should:

- identify more data sources for adult social care, for example by using information from other bodies such as the Local Government Ombudsman;
- enable inspectors to view the risk profile across their whole portfolio; and
- identify how best to support newly recruited inspectors, who will be working from home and who may lack the experience and support networks of existing inspectors.

e **Whistleblowing should be a key source of information for the Commission to detect poor quality or unsafe care.** The Commission should review whether its new whistleblowing arrangements are working effectively, particularly to check that all concerns are being followed up and appropriate action is being taken.

f **There is a risk that extending the Commission's role will distract it from its core work of regulating health and adult social care.** Before making decisions, the Department should assess the costs and impact of giving the Commission additional responsibilities and determine whether the Commission has the capacity to take on an extended role.

g **It is uncertain how much money the Commission will need in the longer term to regulate health and adult social care effectively.** The Commission and the Department should monitor the resourcing position closely as the Commission gains more knowledge about the quality of care in the various sectors it regulates, and make informed and timely decisions about the resources required, taking account of the level of risk they are prepared to tolerate.