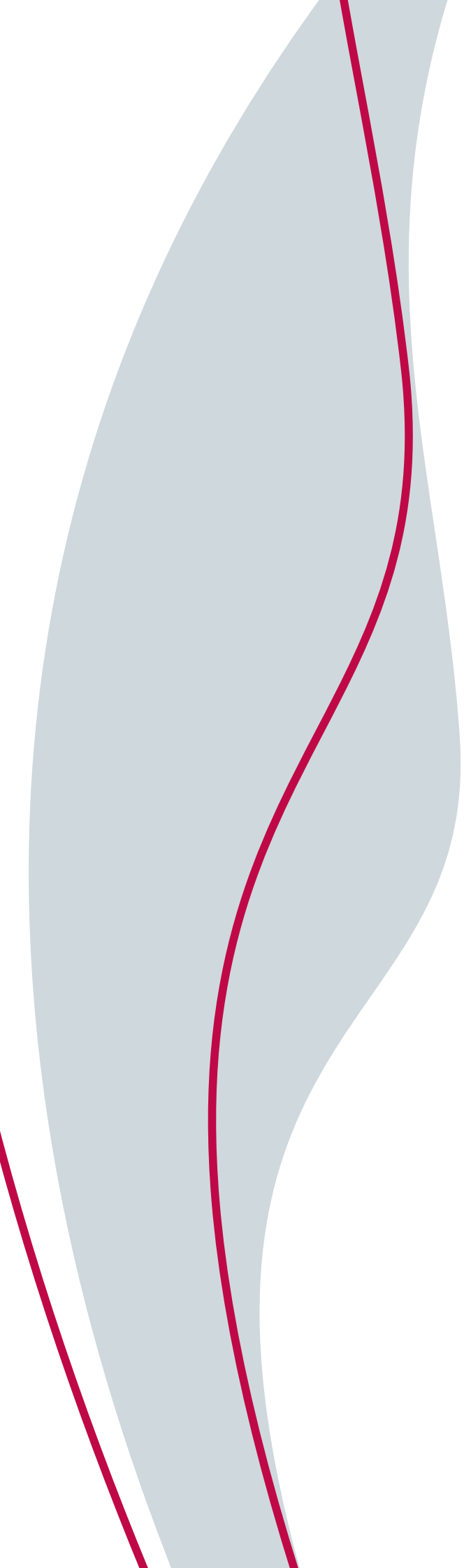




FINDING THE BALANCE: REGULATION OF NHS PROVIDERS

January 2015



INTRODUCTION

Proportionate, risk based regulation is fundamental to building confidence in the NHS, assuring standards of care for patients and the public and ensuring the continuity of services. This is particularly important following some major quality failings in care in recent years, such as those at Mid Staffordshire NHS Foundation Trust.

It is however essential to remember that while regulation plays a crucial role; it cannot substitute for strong and proactive local leadership. It rightly remains the responsibility of NHS provider boards to engender learning cultures, in which frontline staff feel empowered to raise and rectify issues of concern at an early stage. The regulatory framework must enable the sector to lead its own improvement and pursue new models of care.

While NHS foundation trusts and trusts are in a prime position to drive this change at a local level, in collaboration with stakeholders across their health economy, our members tell us that elements of the current approach of the regulatory regime can affect their capacity to do this.

This report outlines the results of an NHS Providers member survey on the current regulatory regime, carried out in September 2014. Based on these results, we explore the current burden of regulation experienced by NHS foundation trusts and trusts and consider how this burden may be impacting on their ability to drive improvement and service change, and what needs to change to mitigate this.

While the regulators very helpfully undertake their own similar surveys of NHS providers, we hope that our results and report offer additional insight and a different perspective, including looking across the regulatory frameworks.

We aim to repeat the survey annually to inform our understanding of the benefits, challenges and trends within the regulatory framework for the NHS provider sector.

NHS Providers is committed to working with the provider sector and all of the national bodies with regulatory responsibilities to ensure that the results of our survey and ongoing insight we gather from our members are

used constructively, to inform the development of the regulatory regime. We welcome the regulators' ongoing engagement with us on these important issues and their input into the development of this survey.

Where we refer to 'the regulators' we mean the Care Quality Commission (CQC), Monitor and the NHS Trust Development Authority (TDA). Although the TDA is an 'oversight body', rather than a statutory regulator, it does monitor NHS trust finances and performance for those trusts within the pipeline to become a foundation trust.

ABOUT THE SURVEY

This report details the results of an online survey of NHS Providers' members, NHS foundation trusts and trusts, carried out between 12-19 September 2014.

We collected both qualitative and quantitative information from members covering their perceptions of the regulators, their experiences of the regime over time, as well as to capture their feedback on some topical issues.

The survey questions were shared with Monitor, CQC and the TDA prior to the circulation of the survey. Each organisation had the opportunity to provide feedback on the questions and make suggestions for changes and/or add additional questions.

The survey was emailed to all member chairs, chief executives and company secretaries. We asked for one response per organisation. Respondents were able to save the survey and continue at a later time, enabling them to coordinate and cross-check answers with colleagues.

There were 55 responses to the survey (40 NHS foundation trusts and 15 NHS trusts), representing 25 per cent of NHS Providers' membership and 23 per cent of the NHS provider sector. Please note that due to the sample size these results may not reflect the views of all NHS providers, particularly in relation to figures 9-11 and 17-19. Not all questions were answered by all respondents, the response rate for each question is labelled as 'n=' within the graph.



SUMMARY OF KEY FINDINGS

We recognise that the regulators currently face a difficult task in delivering an appropriately proportionate and risk based regulation regime in an environment where NHS providers face strategic challenges that often extend beyond their individual control and across their local health economy.

However, as NHS foundation trusts and trusts continue to operate in this challenging environment, experiencing rising pressure to make efficiency savings while also managing unprecedented activity demands and rising staff costs, it becomes increasingly important to ensure that regulatory requirements are risk based, proportionate and aligned; with new requirements to meet quality standards underpinned by sufficient funding.

Outlined below are the key findings from the survey results:

- **Overall, respondents generally felt that their regulators were effectively fulfilling the roles.** However some concerns were raised about particular functions of individual regulators, mainly around conflicts of interest, duplication and clarity.
- **Regulation was seen to facilitate improvements around in-house reporting, provide additional insight and assurance to trust boards, as well as to provide focus to strategic and operational planning.**
- There was a sense from respondents that the **increasing regulatory burden distracts providers from addressing the real issues, while they feed the 'regulatory machine'.**
- **The current regulatory environment may be impacting on perceived lines of accountability; as respondents felt they are currently most accountable to the regulators, however believe they *should* be most accountable to the public.**
- **Despite welcome efforts made by the regulators to align their approach on certain issues, respondents maintain that the regulatory framework appears to be disjointed.** Regulators are not effectively coordinating their activity and can provide inconsistent messages.
- **More frequent ad hoc requests for information from the regulators, often at short notice, can duplicate information provided to other bodies in different forms.** This can be time consuming and requires a substantial amount of management resource, diverting attention away from operational issues.

We are committed to working with our members and the regulators to maximise the value and benefits delivered by the regulatory regime and we hope that the results of this survey can help progress this goal. We will be offering some opportunities for our members to engage with the regulators on these issues and we will continue to explore how the regulatory framework can best enable NHS providers to deliver sustainable, high quality care. We welcome the regulators' commitment to working with us and our members to do this.

THE REGULATORY FRAMEWORK

The regulatory framework within the NHS has undergone significant reform in the past two to three years and continues to develop and evolve. It is complex and involves multiple organisations with overlapping responsibilities.

The Health and Social Care Act 2012 established Monitor as the sector regulator with responsibilities for enabling integrated care, safeguarding choice and competition, and jointly setting prices with NHS England. This was in addition to its role of authorising and regulating NHS foundation trusts.

The role of CQC as a quality regulator has also evolved, developing a new model of inspection led by specialist inspection teams, underpinned by a risk based surveillance framework.

The TDA, although officially an oversight body rather than a statutory regulator, also undertakes regulatory responsibilities, such as monitoring the financial performance of NHS trusts and taking enforcement action to address issues with quality.

Professional regulators, Clinical Commissioning Groups, the Royal Colleges, NHS England and the NHS Litigation Authority are all bodies that also exercise functions that affect NHS providers by setting standards, monitoring what happens and taking action where necessary (Mary Dixon-Woods, 2014).¹

Moving forwards, the Five Year Forward View proposes a more regional approach to regulation and intervention, to support providers and commissioners to develop new care models,² which may result in further changes to the framework and how the regulators operate.

1 Dixon-Woods M (2014). *Regulatory complexity – a challenge for the provider system*. Available at: <http://www.nhsproviders.org/blogs/mary-dixon-woods-blog/> (accessed 18 December 2014).

2 NHS England (2014). *The NHS Five Year Forward View*. London: NHS England. Available at: <http://www.england.nhs.uk/ourwork/futurenhs/> (accessed 16 December 2014).

REGULATION OF NHS PROVIDERS

Figure 1

IN HEALTHCARE, REGULATION IS FUNDAMENTAL IN...

- Assuring patients and the public that agreed quality standards are met
- Giving NHS provider boards information to drive improvement
- Building confidence in the health and care system



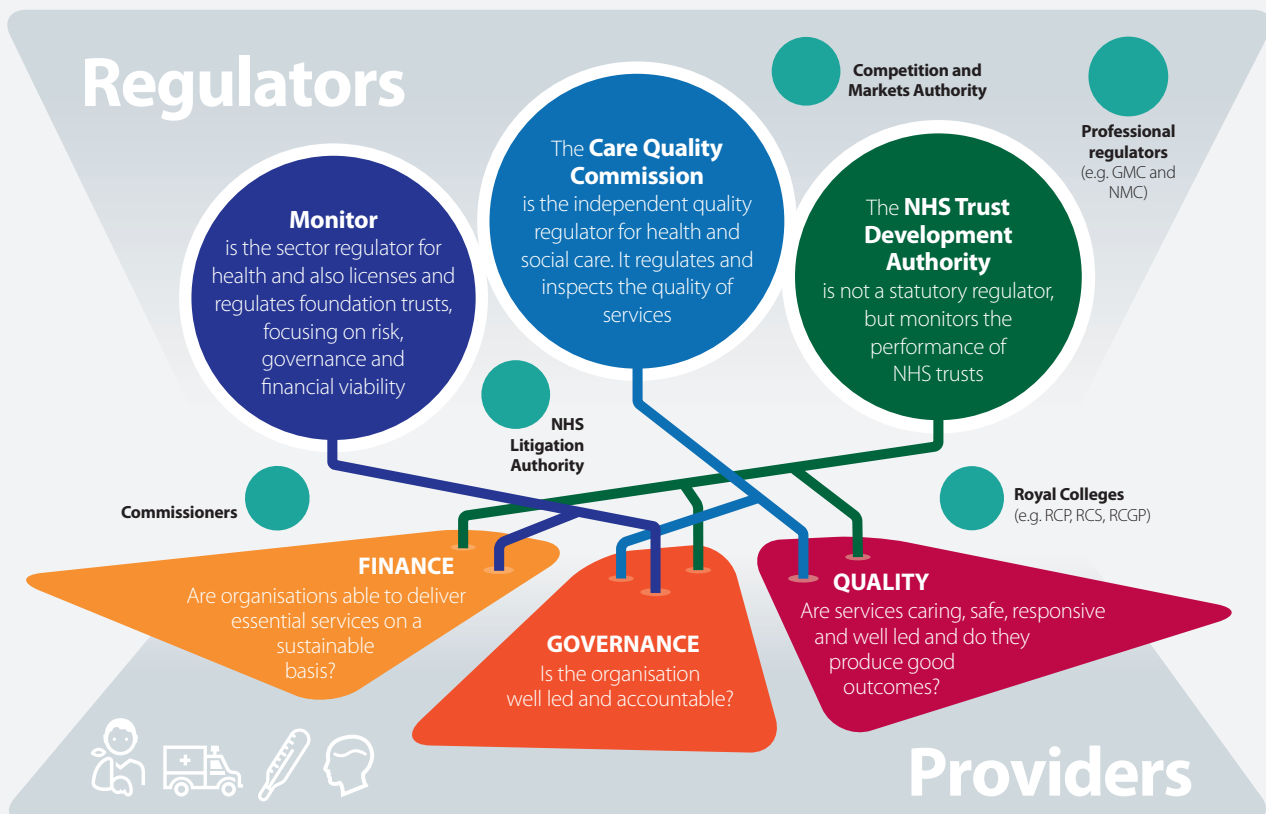
NHS PROVIDER BOARDS HAVE A KEY ROLE TO PLAY



- Showing strong local leadership and accountability, working with local partners and driving continuous improvement
- Encouraging learning cultures and empowering their staff
- Learning from each other through benchmarking and peer review

WHAT ARE THE ROLES OF THE MAIN BODIES REGULATING NHS PROVIDERS?

NHS providers operate within a complex regulatory framework. There are three main regulators of NHS foundation trusts and trusts, but many other bodies exercise regulatory or monitoring functions that also affect NHS providers.



HOW MUCH DOES REGULATION COST?

- The combined budget of Monitor, CQC and TDA (2014/15) is £232.8m – roughly equivalent to running the South Western Ambulance Service for one year (£225m)
- NHS providers and other regulated bodies also dedicate considerable resources to ensuring compliance with agreed standards

Sources: HSJ May 2014, SWASFT annual report 2013/14

HOW SHOULD REGULATION DEVELOP?



- 1 Recognise that NHS providers must be responsible for their own improvement
- 2 Insist on independent, proportionate and risk based regulation
- 3 Develop regulatory assurance that takes local context into account
- 4 Facilitate tailor-made solutions in distressed local health systems
- 5 Hold the regulators to account for providing value for money

THE CURRENT REGULATORY ENVIRONMENT

It is important to recognise that the regulators are currently faced with a difficult task in balancing a proportionate and risk based approach to provider regulation, in an often politicised environment and one where providers are facing strategic challenges that often extend beyond their control and across their local health economy. The events at Mid Staffordshire NHS Foundation Trust and the subsequent Francis Inquiry had a profound effect on the NHS, generating a welcome impetus for cultural change; but arguably prompting a more interventionist approach to regulation.

Nonetheless, regulation should not act as a barrier to, or distract providers from, pursuing new models of care in order to maintain and improve the quality of services.

The regulators must recognise that while NHS providers must drive their own improvement and be accountable for this, where change across a local health and care system is required, including at commissioner level, they should enable and facilitate this change.

Respondents raised concerns that the current approach to regulation is institutionally focused and disjointed, and does not always support NHS providers to pursue improvements across a local health economy, partly because NHS providers are too concerned with meeting national targets and regulator requests.

“ *The level of regulation is a distraction to the organisation who should be spending most of their time resolving the issues – not responding to significant provision of updates and responding to specific queries.* ”

Community NHS FT

“ *...organisation's fear of failing a regulator's target means that they will not take an action/ risk which would improve things... overall for the patient in the health system.* ”

Acute NHS FT

Levels of scrutiny

High levels of scrutiny and increased disproportionate reporting requirements signal a move towards performance management, which not only undermines provider autonomy and accountability, but can disempower leaders and create an over-reliance on central guidance (Ham, 2014).³

Each of the regulators contributes to the overall regulatory environment and the system as a whole, as well as delivering their individual regulatory responsibilities. We therefore asked all respondents about their perceptions of all the regulators.* Overall, respondents felt that the level of scrutiny they face is rising (figures 2 and 3) and current reporting requirements are disproportionate to the level of risk they manage, with a third of respondents stating that there is too much reporting (figure 4).

Figure 2:
How would you describe the overall approach of the regulators to scrutiny over the past two years? (5 = too much scrutiny, 1 = too little scrutiny)

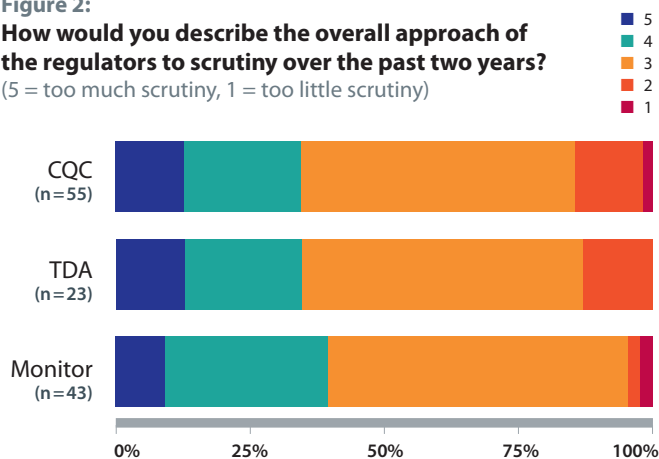
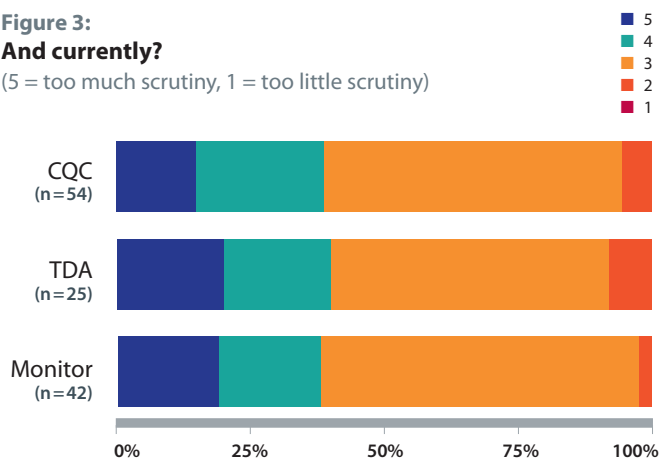


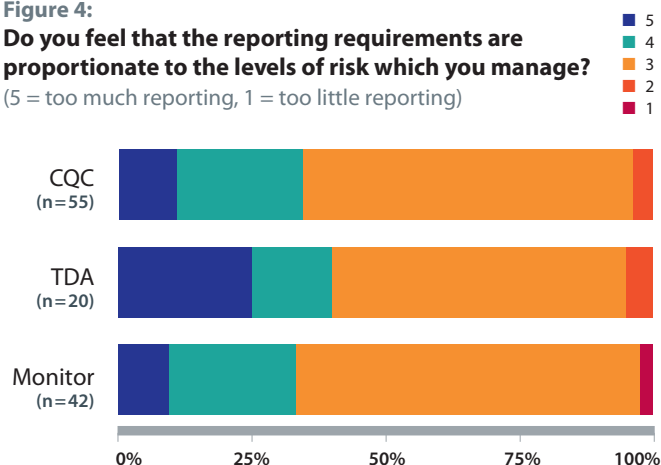
Figure 3:
And currently? (5 = too much scrutiny, 1 = too little scrutiny)



* Please note that more respondents provided perceptions of the TDA than the 15 trusts which responded to the survey and more respondents provided perceptions of Monitor than the 40 FTs which responded to the survey.

3 Ham C (2014). *Reforming the NHS from within: Beyond hierarchy, inspection and markets*. London: The King's Fund. Available at: <http://www.kingsfund.org.uk/time-to-think-differently/publications/reforming-nhs-within> (accessed 9 December 2014).

Figure 4:
Do you feel that the reporting requirements are proportionate to the levels of risk which you manage? (5 = too much reporting, 1 = too little reporting)



Overall impact of regulation over the past 12 months

Respondents cited costs in staff and leadership time, as the greatest impact regulation has had on their organisation over the past 12 months (figure 5). This was followed by fear of punitive action and distraction from the day job. Conversely, on a more positive note, respondents also felt that regulation had provided focus to strategic and operational planning, through the requirement to develop two- and five-year plans.

Regulatory reporting

NHS providers regularly report to each regulator and it is important that data collections are proportionate, streamlined, coordinated and helpful for both providers and regulators themselves. In addition to these routine reporting requirements, on occasion, the regulators may make ad hoc requests for data or information. Respondents generally felt that these additional requests often duplicate information provided in other forms to other bodies and can be quite resource intensive.

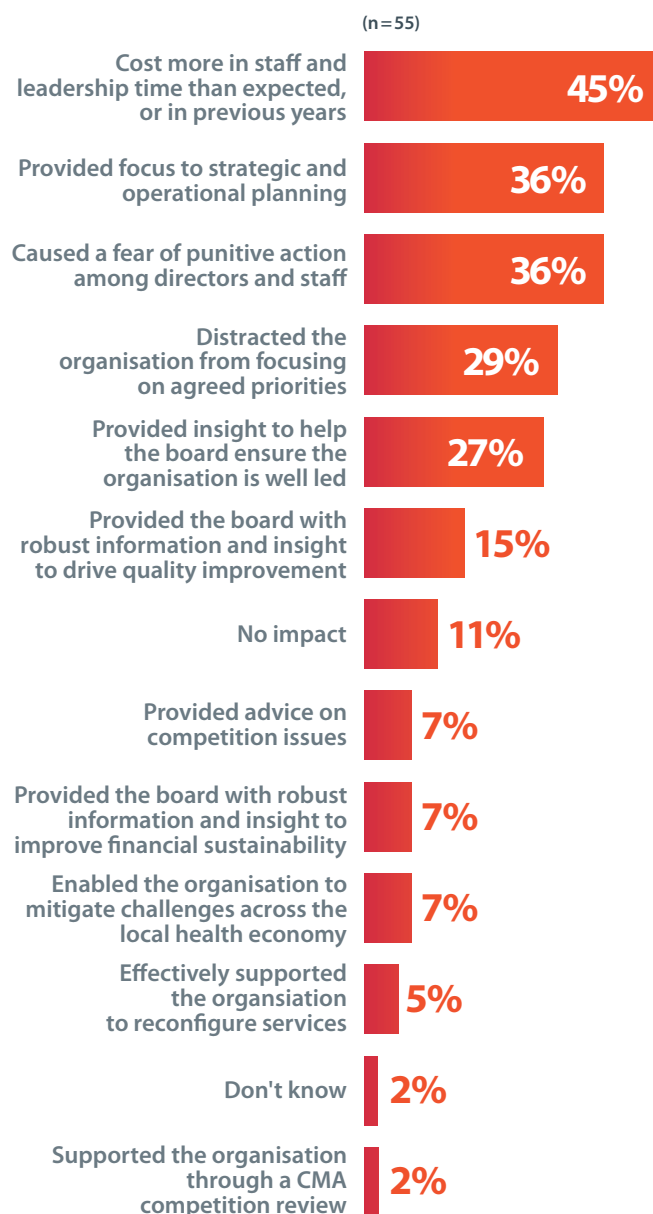
It varies and sometimes it appears regulators are requiring similar information at different times. There tends to be certain periods where reporting increases in frequency and becomes onerous.
Acute NHS FT

On occasion, provision of regulatory information has been a distraction from addressing the real issues, particularly around service quality.
Mental health NHS trust

There is a sense that the increasing regulatory burden distracts providers from addressing the 'real issues', due to resources needed to feed the 'regulatory machine'. However alongside this some respondents reported using regulatory data gathered on an ad hoc basis to provide further assurance to their board or to improve their own reporting.

So much is repetitive and adds little value to the organisation, but occasionally a request really triggers helpful developments within the trust, for example, the recent strategic planning requirement.
Acute NHS FT

Figure 5:
In your opinion, what impact have the regulators had on your organisation over the past 12 months? (Please choose up to 3 options)



REGULATORY FRAMEWORK

The NHS provider sector is complex, therefore clear lines of local accountability and appropriate autonomy are crucial to assure the quality and sustainability of services and enable a culture where providers drive their own improvement. Proportionate and risk based regulation should not dilute this autonomy and accountability.

In particular, being a foundation trust means the freedom to decide how to meet local needs and independence from central government control. Balanced with this autonomy is increased accountability to the community, as represented by governors and members. And like NHS trusts, foundation trusts continue to work to national standards and are also accountable to commissioners, the regulators and parliament.

Our survey results suggest that the current regulatory environment is impacting on perceived lines of accountability. Respondents felt they are currently most accountable to the regulators; however believe they should be most accountable to the public (figures 6 and 7). While some respondents may have preferred to rank options equally, the results show that local accountability to communities may be undermined by over-burdensome regulation. There is a risk that over-regulation and increasing centrally mandated requirements can displace local priorities and stifle innovation.

Figure 6:
In your view, to whom IS your organisation most accountable?
(5 = most accountable, 1 = least accountable)

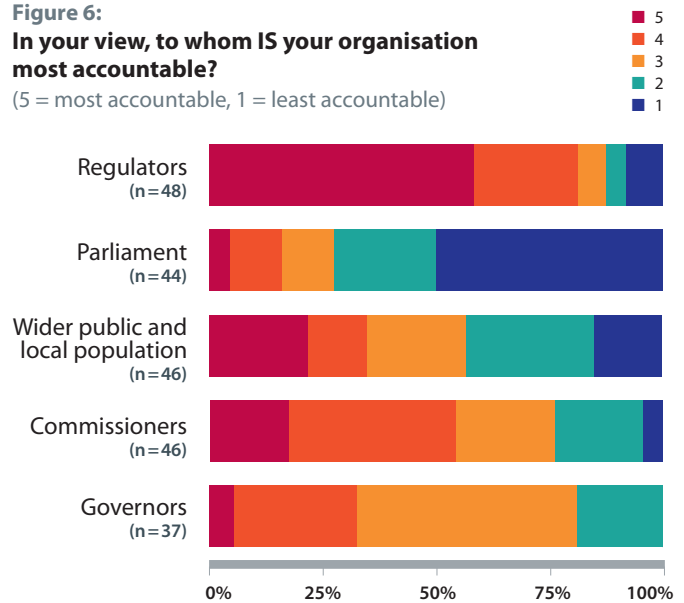
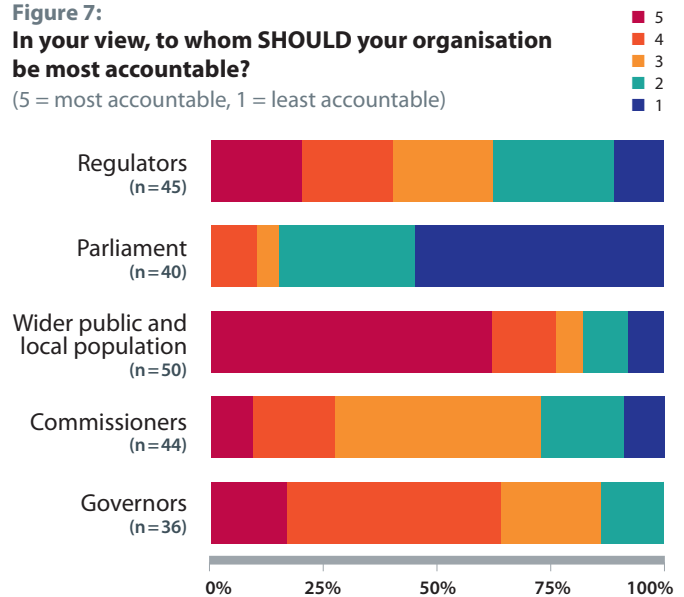


Figure 7:
In your view, to whom SHOULD your organisation be most accountable?
(5 = most accountable, 1 = least accountable)



EFFECTIVENESS OF THE REGULATORS

The combined budget for Monitor, CQC and the TDA in 2014/15 is £232.8 million⁴ – a substantial proportion of the NHS budget, and the equivalent to running the South Western Ambulance Service for one year (£225m⁵). Meeting the requirements of regulation, and servicing regulatory requests for information also places direct financial and managerial cost onto trusts.⁶ It is therefore essential the regulators provide value for money and operate an effective regulatory regime that results in a clear net benefit for patients, the public and those regulated.

To do this the regulators must focus on delivering their intended roles and responsibilities; their approaches should be aligned; functions should not be duplicated; and providers should not face multiple levels of scrutiny and sanction for the same aspect of service delivery.

To be effective the system must instil confidence. The public and those that are regulated must be assured that regulatory activity is meaningful and of value. A regulator's day-to-day activities must support its overall purpose and providers should be aware of the how regulatory requirements and intervention benefits patients, the sector as a whole and/or the local health economy.

Roles and transparency of the regulators

Monitor⁷ describes its role as ensuring:

- independent NHS foundation trusts are well-led so that they can provide quality of care on a sustainable basis
- essential services are maintained if a provider gets into serious difficulties
- the NHS payment system promotes equality and efficiency
- procurement, choice and competition operate in the best interests of patients.

CQC⁸ describes its role as monitoring, inspecting and regulating services to make sure they meet fundamental standards of quality and safety.

The **TDA**⁹ describes its key functions as:

- monitoring the performance of NHS trusts, and providing support to help them improve the quality and sustainability of their services
- assurance of clinical quality, governance and risk in NHS trusts
- supporting the transition of NHS trusts to foundation trust status
- appointments to NHS trusts of chairs and non-executive members and trustees for NHS charities where the secretary of state has the power to appoint.

Overall, respondents felt that the regulators were effectively fulfilling the roles that they each describe (figures 8-11). 80 per cent either tended to or strongly agreed that Monitor was effectively fulfilling its role (n=40); 52 per cent either tended to or strongly agreed about CQC (n=55); and 47 per cent either tended to or strongly agree about the TDA (n=15), given the sample size this equates to 7 out of 15 respondents.

4 HSJ (May 2014). <http://m.hsj.co.uk/5070719>

5 SWASFT annual report (2013/14). http://www.swast.nhs.uk/Downloads/SWASFT%20Annual%20Reports%20and%20Accounts/swasftannualreport_full1314web.pdf

6 NHS Confederation (2013). *Challenging Bureaucracy*. London: NHS Confederation. Available at <http://www.nhsconfed.org/resources/2013/11/challenging-bureaucracy> (accessed 16 December 2014).

7 Monitor <https://www.gov.uk/government/organisations/monitor/about> (accessed 16 December 2014).

8 Care Quality Commission http://www.cqc.org.uk/sites/default/files/documents/cqc_corporate_governance_framework_rev.pdf (accessed 16 December 2014).

9 NHS Trust Development Authority <http://www.ntda.nhs.uk/about/> (accessed 16 December 2014).

Respondents were less positive when asked whether the regulators day-to-day activities were consistent with their overall role (figure 12), however the majority – CQC 52 per cent, and Monitor 66 per cent – strongly or tended to agree that this was still the case. This was less positive with regard to the TDA (36 per cent) perhaps reflecting their different status in offering performance management and support to trusts to progress through the foundation trust pipeline.

Notably, respondents from those NHS providers that have had a CQC inspection within the last 12 months (n=15) were more likely to disagree that the quality regulator was effectively fulfilling its role. 40 per cent of those who have had a CQC inspection (6 out of 15 respondents) either tended to or strongly agreed, compared with 29 per cent of overall respondents (16 out of 55). This could reflect dissatisfaction with the outcome of an inspection, or with the process of inspection itself.

Some concerns were raised about particular functions of the individual regulators, mainly around conflicts and clarity. Recurring themes included:

- Monitor: foundation trust respondents raised concerns about a conflict of interest with regard to its sector regulator responsibilities for setting prices while taking regulatory action against individual providers in financial distress, as the foundation trust regulator.
- CQC: often describes its role as ‘acting as an agent of improvement not as an improvement agency’ however respondents seemed unclear of this distinction. Some felt that it could be a “force for improvement”, however others felt that it should focus on its role in “ensuring fundamental standards” rather than a wish to drive improvement which we would see as being most effectively led by provider boards.
- TDA: respondents from NHS trusts raised specific concerns around the ability of the TDA to provide support to trusts to make improvements and manage the transition to foundation trust status.

Overall, the survey results suggest there is a lack of visibility around how the regulators utilise the data received when making ad hoc requests for information and how they either ensure there is a better understanding of the issues at a national level, or how the information benefits providers, patients, the sector as a whole or the local health economy.

“ *When a specific issue arises, all regulators ... seek assurance on the same issue but often in a different form. There is little value added by this assurance process as it is often a ‘one-way street’ with very little feedback which helps us to improve our response for the benefit of patients.* ”

Acute NHS trust

“ *Some duplication; and often slightly different emphasis requiring two sets of data and potential for confusion. Very little feedback.* ”

Acute NHS trust

Figure 8:
The regulators are effectively fulfilling their roles as described?
(Monitor – respondents from NHS foundation trusts only)

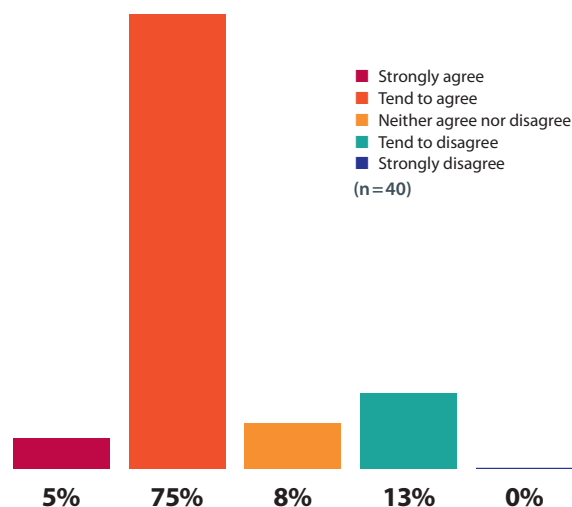


Figure 9:
The regulators are effectively fulfilling their roles as described?
(CQC)

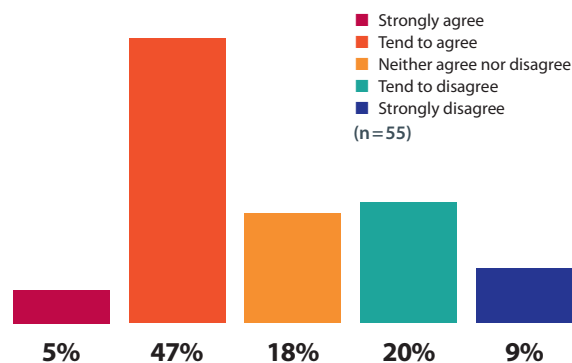


Figure 10:
The regulators are effectively fulfilling their roles as described?

(CQC – respondents from trusts which have had an inspection within the last 12 months)

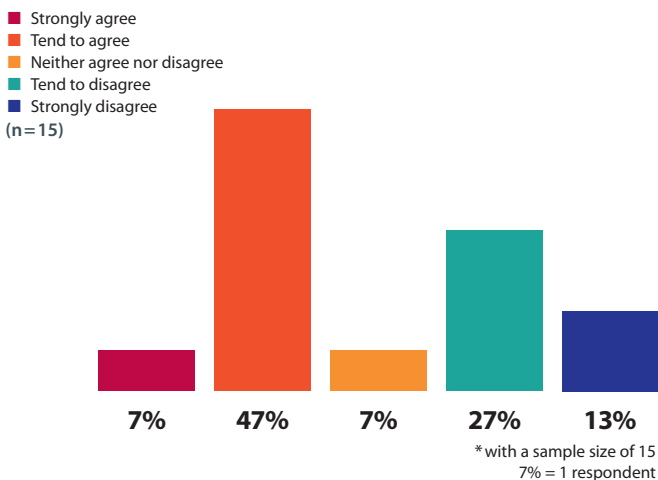


Figure 11:
The regulators are effectively fulfilling their roles as described?

(TDA – respondents from NHS trusts only)

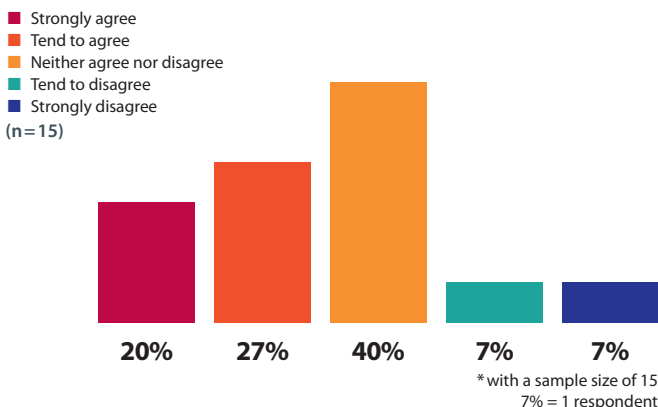
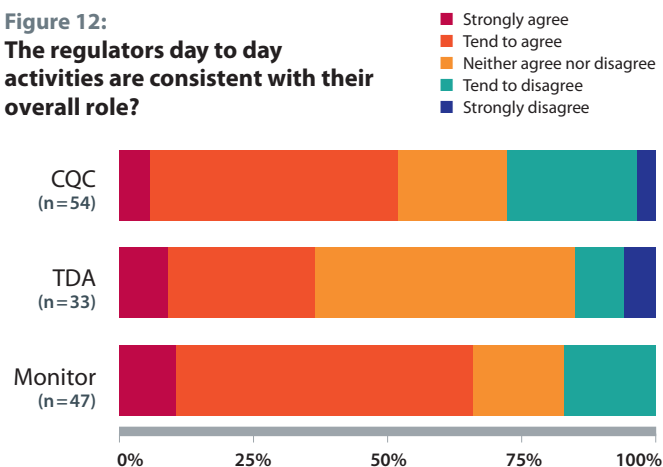


Figure 12:
The regulators day to day activities are consistent with their overall role?



Regulatory alignment

Despite recent welcome efforts by the regulators to align their approach on certain issues, such as the statement of intent on assessing if an organisation is well led, the results of the survey suggest that NHS providers still experience a disjointed regulatory framework, in which regulators are not effectively coordinating their activity and providing consistent messages (figure 14). Over half of respondents either tended to or strongly disagreed that the roles of the regulators are aligned (figure 13).



Information requests are duplicated and often ask for different information or currency of measurement requiring the data to be cut in many ways. It often feels as though each regulator works in isolation to the others with little consideration of the regulation and finding of the others.

Acute NHS trust

In particular, concerns were raised about the alignment of the TDA, Monitor and CQC with regard to their responsibilities for supporting trusts through the pipeline, with one respondent from an NHS mental health trust stating that the three organisations “are not on the same page and have differing views on the same issue”.

Respondents also reported experiencing double jeopardy, particularly in reference to quality concerns, with one fifth of respondents reporting occasions of being sanctioned twice for the same issue (see figure 15).

A perceived conflict between improving quality and maintaining long term financial sustainability was also a concern raised by survey respondents, particularly the lack of alignment between CQC’s and Monitor’s priorities and the possible catch-22 situation NHS providers may find themselves in if they make substantial investments to improve quality, such as increase staffing numbers, and then face enforcement action from Monitor if their financial position deteriorates.



The system compels action – spending on staff, RTT for example – and then punishes the providers for the consequences – e.g. overspending.

Acute NHS FT

Figure 13:
The roles of the respective regulators are aligned?

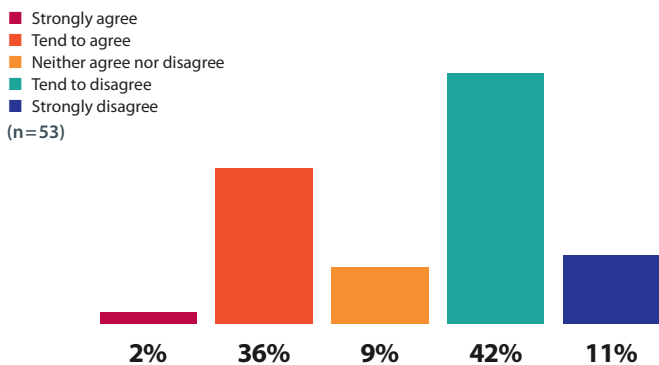


Figure 14:
The regulators coordinate their activity effectively?

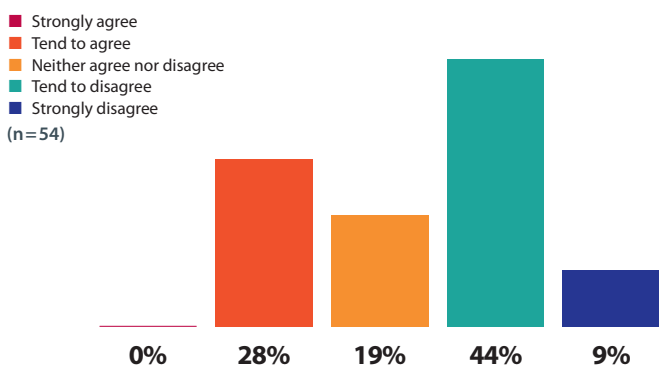
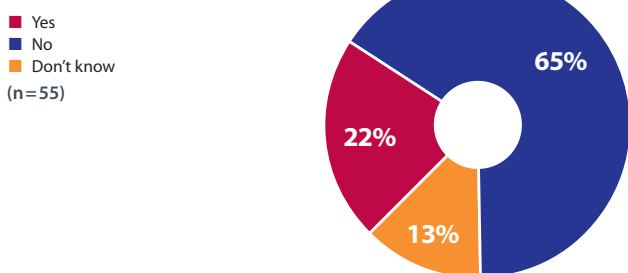


Figure 15:
Has your organisation ever been sanctioned more than once for the same issue by different regulators?



CQC INSPECTIONS

Responsibility for quality improvement ultimately lies with NHS provider boards which are best placed to drive learning cultures, empower staff to raise and rectify issues of concern at an early stage and to effect change at the frontline. Regulation can only be used as a third line of defence and should concentrate on identifying risk based, proportionate and timely action in organisations with systematic issues relating to quality of care (Dixon et al 2012).¹⁰ NHS Providers supports a strong quality regulation process which promotes public confidence in the NHS and ensures quality retains parity with financial scrutiny. However it is essential it instils confidence in providers as well.

It is important to note that CQC has faced understandable challenges in developing its new model against an ambitious timescale while managing political and public expectations. We welcome the principles driving the CQC's new approach to implement risk based and proportionate regulation, 'to act as an agent of improvement, rather than as an improvement agency' and offer insights to provider boards.

“CQC's role is better understood, but has suffered following Francis and is only now beginning to rebuild public confidence.”

Acute NHS FT

In addition to our general questions about accountability, levels of scrutiny and roles of all the regulators, which we covered earlier in this report, we asked all survey respondents from acute providers (n=32) about their confidence in CQC's intelligent monitoring indicator set (see figure 16). We also asked respondents whose organisation has had a CQC inspection within the last 12 months (n=14) a series of questions on the inspection regime process (see figures 17-19).

Please note that the sample size for the questions about CQC's inspection regime (n=14) is significantly lower than the number of trusts which have now been inspected, now over 100.¹¹

¹⁰ Dixon A, Foot C, Harrison T (2012). *Preparing for the Francis report: how to assure quality in the NHS*. London: The King's Fund. Available at <http://www.kingsfund.org.uk/publications/articles/preparing-francis-report-how-assure-quality-nhs> (accessed 16 December 2014)

¹¹ www.cqc.org.uk

However we have included these results as we believe they provide a useful insight to help maximise the value and the benefit of inspection to patients, the public and NHS providers.

Underpinning CQC's new inspection approach is the regular collection of data and the introduction of a new intelligent monitoring system. We asked that acute providers only respond to this question because the intelligent monitoring datasets for mental health, community and ambulance providers are in different and earlier stages of development and implementation. Respondents were divided on the question of whether CQC's intelligent monitoring indicator set effectively measures risk to patient safety and quality (see figure 16). Just over half of acute sector respondents (53 per cent, n=32) were not confident that it effectively measures risk to patient safety and quality, whereas a significant minority, 41 per cent, of respondents felt that it did, and the remaining six per cent selected 'don't know.' As the intelligent monitoring system becomes fully embedded across all sectors, we will work with members and the regulator to understand the benefits of the approach, and any constructive suggestions for improvement from our members, in greater depth.

The inspection process itself provides an intensive period of onsite assessment of risk and compliance at an NHS provider. The delivery of inspections by CQC, and the management time devoted to preparing for and hosting inspection by NHS providers, makes it important for this resource intensive element of the regime to deliver value for all concerned. With this in mind, it is encouraging that seven respondents (50 per cent) felt that the benefits their trust gained from the inspection justified the cost in resources (see figure 17). However, we note that six respondents (43 per cent) did not feel the cost was justified. In addition, four respondents (29 per cent) reported that their inspection highlighted areas of concern of which their board was not already aware (see figure 18) while the majority (10 respondents, 71 per cent) felt that their board was already aware of any areas of concern which their inspection highlighted. This may reflect well on the grip the NHS providers have on areas of development within their operation. Alongside these results, a number of the qualitative comments from respondents articulated a need to ensure data is triangulated appropriately during an inspection.



CQC's inspection function is clearly inconsistent and does not triangulate the points it identifies fully before reaching conclusions.

Mental health NHS FT

Following an inspection, CQC hosts a quality summit with the provider and local partners in the health and social care system to agree a plan of action based on the inspection team's findings. Three respondents (21 per cent), whose trust had been inspected in the last 12 months, found the quality summit to be 'helpful' or 'very helpful' (see figure 19). However, eight respondents (57 per cent) said that their quality summit was 'neither helpful nor unhelpful' and three (21 per cent) found their quality summit to be either 'unhelpful' or 'very unhelpful'. This suggests a need to ensure that quality summits are operating with maximum effectiveness particularly given that the challenges facing NHS providers often extend beyond their control and require cooperation and collaboration across local health economy partners. The qualitative comments also suggest a need to clarify local health economy accountabilities and the involvement of commissioners in the summits.



Of major concern is the role of the quality summit in identifying appropriate responses to health economy wide issues and ensuring that these are taken forward.

Acute NHS FT

Figure 16:
Are you confident that CQC's indicator set for intelligent monitoring effectively measures risks to patient safety and care quality at your trust?
 (Acute providers only)

■ Yes
 ■ No
 ■ Don't know
 (n=32)

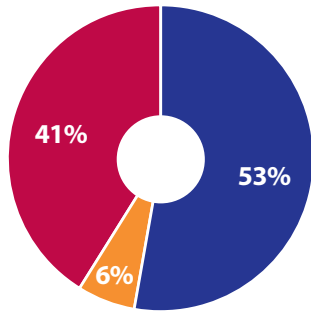


Figure 17:
Overall, do you feel the benefits that your trust gained from the inspection justified the 'cost' in resources to the trust of preparing for, and hosting, the inspection team?

■ Yes
 ■ No
 ■ Don't know
 (n=14)

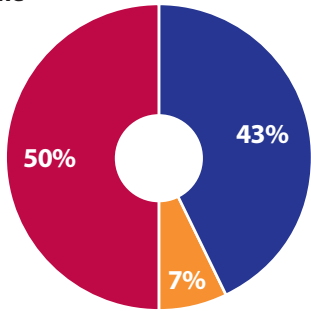


Figure 18:
Did the inspection highlight any areas of concern of which your board was not already aware?

■ Yes
 ■ No
 (n=14)

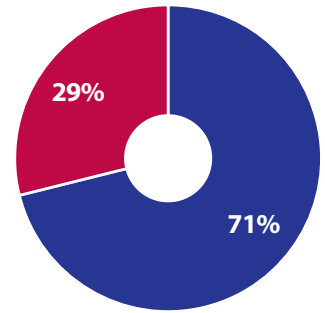
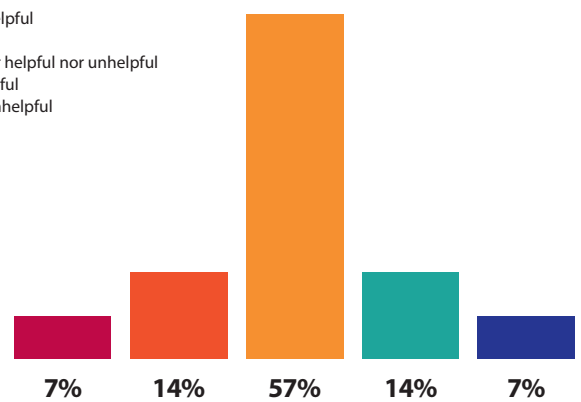


Figure 19:
How helpful did you find the quality summit in identifying solutions to any concerns raised?

■ Very helpful
 ■ Helpful
 ■ Neither helpful nor unhelpful
 ■ Unhelpful
 ■ Very unhelpful
 (n=14)



*with a sample size of 14
 7% = 1 respondent

CONCLUSION

In a sector where patient safety and public confidence are crucial, regulation has a fundamental role to play. Both NHS providers and the regulators are keen to learn from quality failures of the past. Overall, regulation in healthcare should build confidence and provide assurance at national, local health and care economy, and institutional levels about the quality of services provided to the public, ensuring that they meet agreed standards. There is also a role for regulation to monitor the financial sustainability of providers, to ensure the continuity of essential services.

NHS foundation trusts and trusts place quality at the heart of all that they do, and need efficient finances to provide value for public money and to enable the delivery of high quality care. We know that NHS providers are operating within an increasingly challenging landscape. They are facing increased pressure to make efficiency savings at a time of managing unprecedented demand and rising staff costs to meet the quality and activity demands,¹² while also dealing with the knock-on effect of challenges within other areas of the system, such as primary and social care. It is essential in this environment that the regulatory regime provides value for money, that new quality requirements are fully funded and that regulation is not perceived as a barrier to new ways of working.

We appreciate that it is also a challenge for the regulators to operate an institutionally-based regulatory model when the challenges facing trusts and their services cross the health and care sector, and are not always within the control of the individual institution. We recognise that they are striving to balance a risk based approach in a system with a high public and political profile where there can be considerable pressure to take enforcement action.

While just a snapshot view from a sample of NHS providers, our survey results demonstrate that the current regulatory frameworks could be better aligned and the environment is becoming more risk averse. The overall burden of regulation is seen by NHS providers to be rising, with more frequent requests for additional information and a need for fuller feedback on how the information is used. At a time when the NHS is being encouraged to move towards new models of care while balancing unprecedented financial challenges, it is crucial for the regulatory system to continue to develop in a way that encourages and enables innovation and improvement across health economies, managing risk and facilitating change.

12 NHS Providers (2014). *How much does high quality care cost?* Available at <http://www.nhsproviders.org/resource-library/ftn-briefing-the-cost-of-high-quality-care/> (accessed 16 November 2014).



NEXT STEPS

The survey results support the anecdotal feedback we receive from our members on a regular basis and have enabled us to have more detailed conversations with the regulators about the current burden of regulation. The regulators are keen to learn from our survey results and compare these with the findings from their own similar surveys; we appreciate their commitment on this.

The results have also proved helpful in informing our written evidence submissions to the Health Select Committee for both Monitor and CQC accountability hearings; and have underpinned our *Programme for the next Parliament*, where we set out the following priorities for NHS regulation:

- 1.** Recognise that NHS providers must be responsible for their own improvement.
- 2.** Insist on independent, proportionate and risk based regulation.
- 3.** Develop regulatory assurance that takes local context into account
- 4.** Facilitate tailor made solutions in distressed local health systems
- 5.** Hold regulators to account for providing value for money.

We have had separate conversations with each of the regulators to discuss the detail of the survey and consider the reasons behind the results. We have agreed some next steps with each of the regulators, to ensure our members concerns are acted on and will continue to explore how the regulatory framework can enable NHS providers to deliver sustainable, high quality care. This includes having in-depth conversations with a selection of survey respondents to explore the results in more detail and identify the underlying cause of any common concerns; and a series of engagement events for our members with the CQC's leadership team and senior individuals at Monitor.

For further information

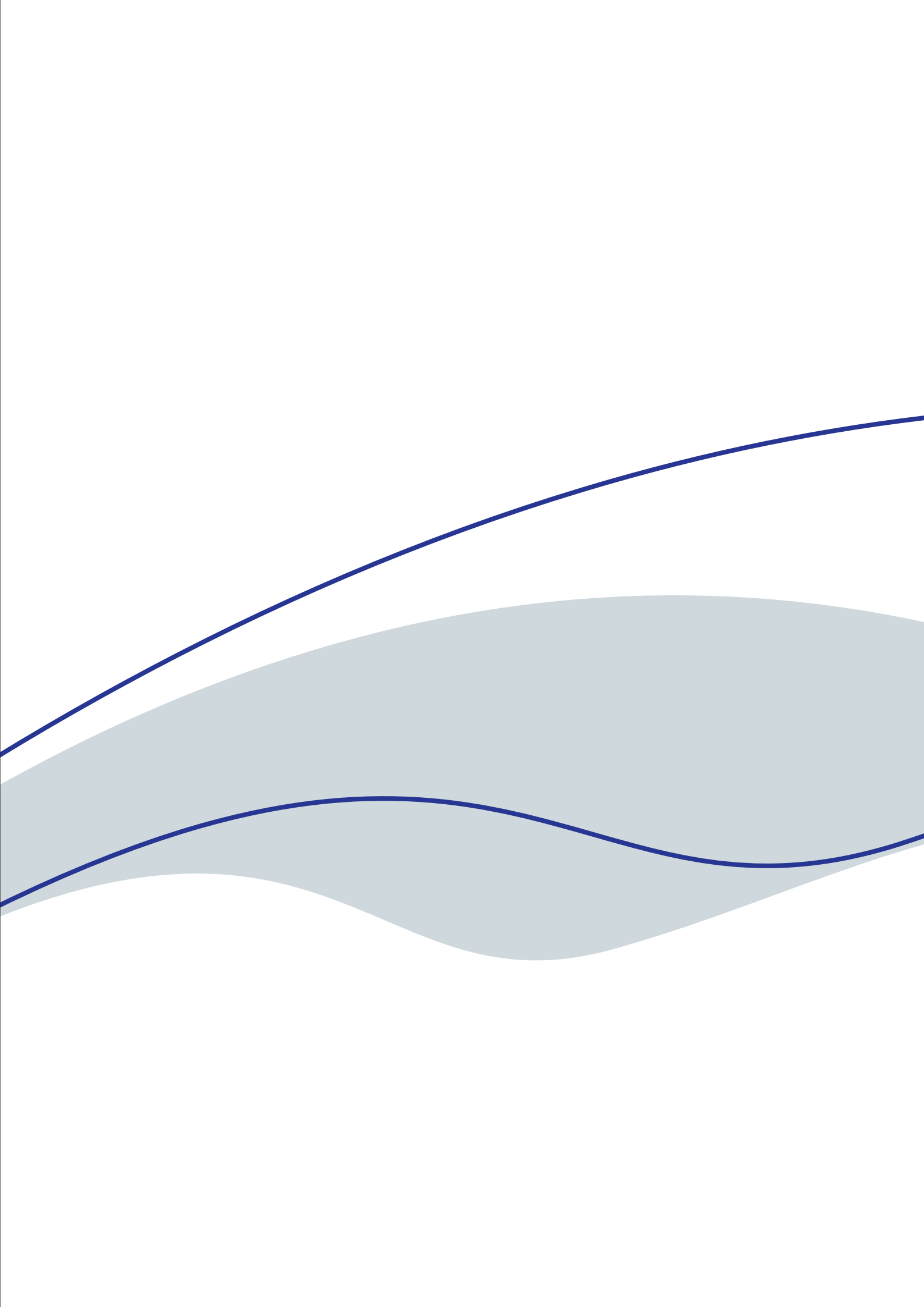
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NHS Providers is the membership organisation and trade association for the NHS acute, ambulance, community and mental health services that treat patients and service users in the NHS. We help those NHS foundation trusts and trusts to deliver high quality, patient focussed, care by enabling them to learn from each other, acting as their public voice and helping shape the system in which they operate.

NHS Providers has 226 members – 94 per cent of all NHS foundation trusts and aspirant trusts – who collectively account for £65 billion of annual expenditure and employ more than 928,000 staff.



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