



REGULATION SURVEY REPORT 2017

**The impact of
regulation in a
shifting environment**



INTRODUCTION

This report outlines the results of our third regulation survey, which was carried out in January 2017. This follows on from similar surveys undertaken in 2014 and 2015. As in previous years, we undertook this survey to explore trusts' experience of regulation over the preceding 12 months, as well as their views on the future of regulation and to identify trends over time.

Over the last year, the regulatory environment for NHS providers has experienced an intense period of change, with the creation of NHS Improvement, the introduction of a single oversight framework for NHS trusts and foundation trusts and the announcement of a financial 'reset' which saw a new financial special measures regime being established. Regulators have also sought to achieve greater alignment in the discharge of their respective functions on a range of measures, including by co-developing their assessments of leadership and use of resources by trusts. Moving forward, the regulatory landscape looks set to continue to evolve at pace – upon its completion of its comprehensive inspection regime, the Care Quality Commission (CQC) is now firmly moving into the implementation phase of its recent five-year strategy, which will see important changes to how NHS trusts and foundation trusts are regulated from April 2017 onwards.

More widely, the provider sector has continued to deal with considerable pressure in the face of increasing demand and a tightening financial environment. While addressing these immediate challenges, NHS trusts are also working with local partners to transform health and care services to meet the changing needs of patients and ensure they are sustainable. There is a prevailing view that sustainability and transformation plans (STPs), now moving from planning to implementation, have the potential to transform delivery of care in the direction set by the *Five year forward view*. NHS England has now published its *Next steps on the five year forward view*, setting out priorities for the NHS over the next two years and how STPs are evolving. This sets out the intention to introduce an additional layer of STP oversight that will look to align with NHS Improvement's single oversight framework and NHS England's clinical commissioning group improvement and assessment framework.

This all creates an environment where a proportionate and risk-based regulatory system has never been more important – autonomous boards are best placed to respond to a challenging financial and operational context, while additional regulatory intervention and increased regulatory burden risks being counterproductive and overload providers at a time when they are managing rising demand, trying to restore performance against operational targets and achieve financial balance and transforming services.

The current context brings into sharp relief the delicate balance that regulators must strike between adopting a more supportive approach to improvement with increased intervention while facing pressure to support the sector in overcoming the challenges it faces. The results of this year's survey show a perception among trusts that the regulatory environment may be starting to move in the right direction and that the regulators' efforts to ensure better alignment and consistent messages are starting to gain a welcome momentum. However, the findings also indicate that the provider sector has experienced additional regulatory requirements and reporting. The weight of regulation and oversight still impacts

heavily on individual trusts and the time and resources that regulation absorbs often stretch their capacity. Respondents to the survey described a situation in which autonomy is increasingly confined and a tightening of the regulatory grip, without necessarily there being a recognition that many of the challenges the sector is facing are driven by system-wide factors.

Where we refer to the regulators we mean the Care Quality Commission (CQC) and NHS Improvement (formed from Monitor and the NHS Trust Development Authority (TDA)).

Summary of key findings

The key findings from the survey are outlined below.

- This year's survey reveals a perception that the regulatory environment may be starting to move in the right direction, with 44% of respondents considering the overall regulatory framework to be working 'fairly' or 'very well' – an increase on the 29% recorded in our last survey in 2015. A greater proportion (up from 36% to 44%) indicated that regulators are getting better at coordinating their approaches but more is needed to achieve a more streamlined regulatory framework despite progress made. Respondents stressed that demands placed on trusts when it comes to complying with regulatory requirements have not reduced and that the overall burden is in fact increasing.
- While regulators' efforts to ensure better alignment and duplication are starting to gain a welcome momentum, the task ahead remains large. Worryingly, a third of respondents continue to report that the regulatory framework is working either 'fairly' or 'very poorly'. In addition, the majority of respondents do not feel that the overall regulatory system delivers value for money – 56% of respondents felt it provides either 'poor' or 'very poor' value.
- The survey highlights that the regulatory burden that NHS trusts and foundation trusts experience remains excessive. Overall, two thirds of respondents (68%) felt that the regulatory burden had increased over the last 12 months and the same proportion also felt that the number of ad hoc requests from regulators had also grown. This is the third of our surveys in which trusts have reported increases in the demands asked of them by regulators. Respondents felt the burden of the additional regulatory demands over the past 12 months was tied to operational and financial challenges.
- An effective regulatory system must be commensurate to the degree of risk posed, however survey findings show that this remains a major concern. More than half of respondents (55%) do not feel that the current reporting requirements are proportionate to risk, a position that has hardly shifted since 2015. Overall, this response is more widespread among foundation trusts (62%) than among NHS trusts (36%). There was also a view that action by the regulators is not assisting them in better managing the risks they face.

- NHS provider boards need to be confident that their autonomy will be upheld, with appropriate accountability in place. Findings on whether NHS Improvement strikes the right balance between autonomy and support and respects board accountabilities paint a generally positive but mixed picture, with foundation trusts less optimistic about this than NHS trusts. Overall however, when asked about the impact of the merger of Monitor and the TDA, there were recurring concerns among respondents from foundation trusts regarding the dilution of their autonomy. Respondents repeatedly voiced concerns about ‘a move to trust regulatory approach for foundation trusts’.
- Changes in the regulatory framework will take time to bed in before their full impact can be seen. Many respondents commented that it was too early to provide a definitive view on how the single oversight framework is operating. While respondents cited examples of good support, views were split with acute providers more positive about the support offer than non-acute providers.
- There are further changes on the horizon in terms of the regulatory framework. Looking ahead to the CQC’s proposed move to a more targeted and responsive approach to inspecting and regulating trusts from April 2017, there is considerable scope to take on board concerns about the resource intensive nature of the current inspection regime that is again reflected in this year’s survey responses.

About the survey

This report outlines the results of an online survey of NHS Providers’ members – NHS foundation trusts and trusts – carried out in January 2017. We collected both qualitative and quantitative information covering experiences of the regulatory regime over the last 12 months, as well as to capture their feedback on topical issues.

The survey questions were shared with the CQC and NHS Improvement prior to the circulation of the survey. Each organisation had the opportunity to provide feedback on the questions, with suggested changes taken into account and reflected where possible.

There were 76 responses to the survey (22 NHS trusts and 54 NHS foundation trusts), representing 32% of NHS of the provider sector. Of the respondents, 41% were and chief executives, 47% were company secretaries and 12% were other board-level directors. Just over a third (38%) of respondents have received an ‘outstanding’ or ‘good’ rating from the CQC, with two thirds rated as ‘requires improvement’ or ‘inadequate’. Of the respondents, 71% are in segment 1 or 2 of the NHS Improvement’s single oversight framework (maximum autonomy or targeted support), with the remaining 29% in segments 3 and 4 (mandated support or special measures).

Please note that not all questions were answered by all respondents.

OVERALL REGULATORY FRAMEWORK

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April 2016 saw the coming together of Monitor and the NHS Trust Development Authority to form NHS Improvement, which has since made good progress in developing its new approach to regulation. Its new single oversight framework presents an opportunity for the regulator to be pragmatic in the way it oversees trusts, taking into account their contribution to wider health economy challenges and delivering strategic change, rather than being used as a blunt regulatory tool which penalises trusts for taking risks. That said, it continues to face having to strike a careful balance between a more supportive approach to improvement with its formal regulatory functions. The CQC has now consulted and is preparing to roll out its new regulatory model, which will see fewer inspections and a more tailored approach. These changes could, if carefully implemented, pave the way for a more sustainable inspection regime. As regulators are facing intense scrutiny to ensure that the sector overcomes current challenges, maintains quality, transforms care and delivers efficiency savings, it is crucial that the way in which they respond stays true to the principles of a risk-based and proportionate approach to regulation.

As in previous surveys, we asked respondents how they feel the overall regulatory system is currently functioning. The survey reveals that there is a perception among trusts that the regulatory environment is heading in the right direction, with 44% of respondents considering the overall regulatory framework to be working 'fairly' or 'very well' (figure 1) – an increase on the 29% recorded in our last survey in 2015. But respondents also stressed that there is still room for significant improvement. Despite progress made in terms of regulatory bodies working more closely together, the demands placed on NHS foundation trusts and trusts when it comes to complying with regulatory requirements have not reduced.

Worryingly, about a third of respondents (32%) continue to report that the regulatory framework is operating 'fairly' or 'very poorly'. Too many competing demands, overlapping layers of regulation, an institutionally focused regulatory system that is not conducive to working effectively across local health systems and the need to reduce the number of regulators remain the major sources of concern among respondents when asked about the overall regulatory system.

Here are a selection of quotes from the survey respondents:

Improvements continue with greater alignment now observed between NHS Improvement and CQC. However, there needs to be further information so that the framework adequately deals with new models of care.

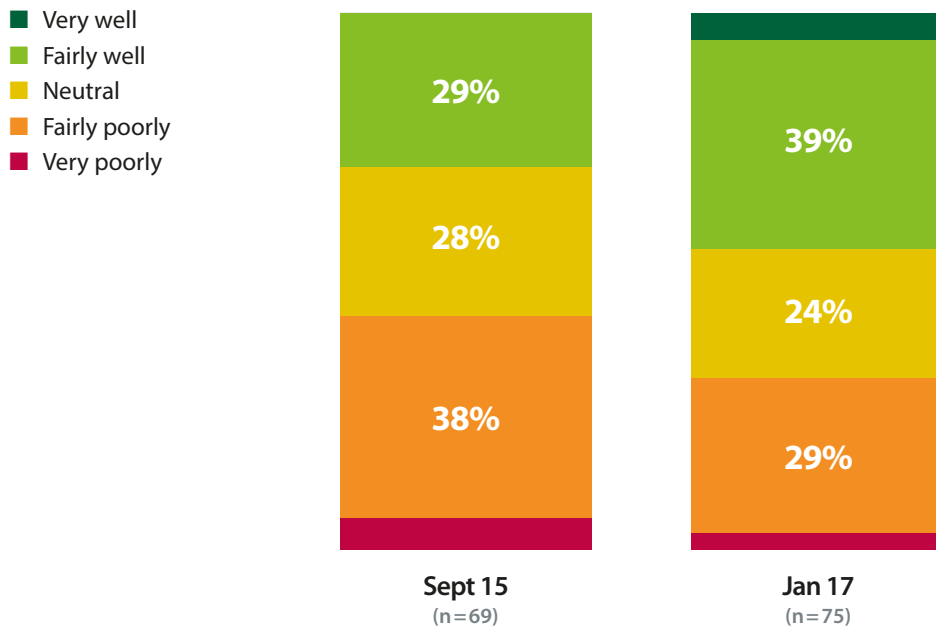
[The] single oversight framework is anything but single. There are still two regulators CQC and NHS Improvement. Should be one.

The big problem is that regulation of individual trusts gets in the way of system working.

“While it is refreshing to see regulatory frameworks aligning such as the CQC and NHS Improvement’s well-led reviews, the overall work required to fulfil requirements has not reduced.

“Increased regulation from NHS Improvement and CQC, which increasingly overlaps and duplicates the role of commissioners and other forms of accountability.

Figure 1:
How well do you think the overall regulatory framework of the NHS is currently working?



Value for money

Against a backdrop where the fees that providers pay regulators have risen at a time of sustained financial constraints, with an intense search for efficiencies underpinned by the pressure to restore financial balance, demonstrating that regulatory activity adds value and is commensurate to the benefits it brings to patients, the public and those regulated is crucial. It is therefore concerning that over half of respondents to our survey (56%) indicated that the regulatory system providers ‘poor’ or ‘very poor value’ for money for taxpayers (figure 2). Compared to the 2015 survey, more respondents were neutral about the value for money of the current regulatory system (an increase from 25% to 37%).

Among the recurring themes raised were issues around persisting duplication and overlap and a lack of tangible benefits to patients and providers, along with the greater financial pressures due to the costs of regulation now being borne by providers directly. The institutional nature of the regulatory regime at the expense of a focus on systems was also seen as one of the factors contributing to limited value.

“The regulatory framework is excessive and there is often duplication. There are occasions when the regulatory system does add value, however it can often be the case that the regulatory system has no tangible benefits to the provider.

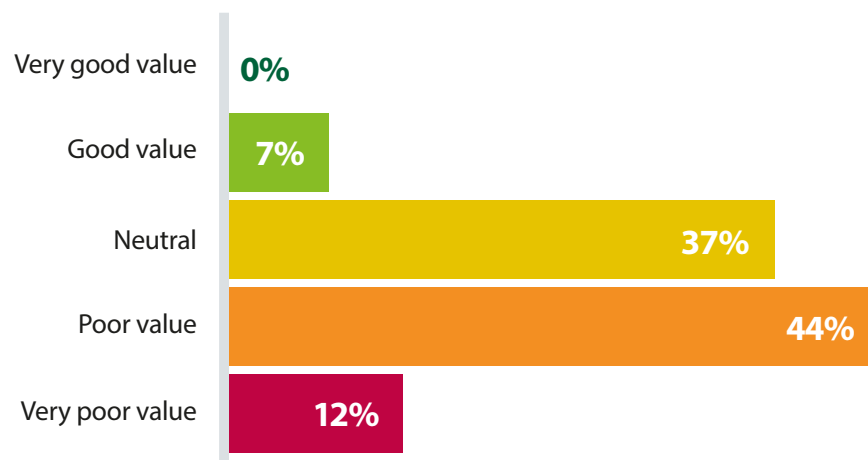
“Too many regulators, causing overlap and duplication of resource and cost.

“The individual regulators are doing their best. However, they are often focusing on the wrong targets (individual trusts rather than systems).

“Hard to judge value for money against any clear criteria. However, duplication of regional NHS England and NHS Improvement functions would not seem to represent good value.

Figure 2:
To what extent do you think the overall regulatory system of the NHS currently provides good value for money for taxpayers?

(n=75)



Regulatory alignment and coordination

On the whole, a greater proportion of respondents to this year’s survey – 44% – agreed that there has been effective coordination between the regulators (figure 3). These findings are a positive indication that regulators’ efforts to ensure better alignment and reduce duplication are starting to gain a welcome momentum, but the task ahead remains considerable. While respondents recognise that the regulatory framework may be starting to move in the right direction, many commented that it remains imperative for regulators to sustain their efforts to address tensions in the current regulatory framework. One respondent summed this up by stating that “the tide has turned but the sea is still stormy”.

“There is definitely a direction of travel of improvement.

While the concerted effort to improve coordination of regulatory approaches was noted, respondents also argued that implementation remains inconsistent at times. Respondents also felt that a gap remains in terms of broader alignment with the rest of the regulatory infrastructure, in particular with NHS England, and a need to further improve coordination across systems. This is particularly important given the shared expectations placed on providers and commissioners to work together to transform care. Significant challenges to achieving a more aligned regulatory framework remain, as reflected in that over a third of respondents (35%) continue to report that regulators are not effectively coordinating their activity.

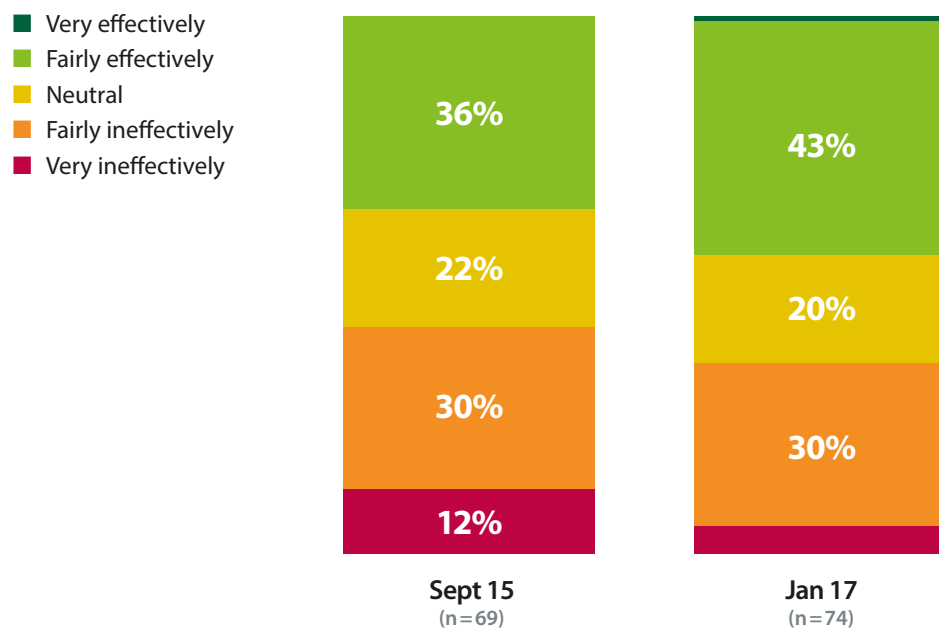
“The single oversight framework is now seeing some alignment with the CQC. However there appears to be little alignment with the way in which NHS England and NHS Improvement work.”

“While they are more joined up e.g. joint publications there is still overlap between the roles of the key regulators.”

“CQC and NHS Improvement are trying to work together, but the SOF is just a fudge. Merge them!”

“They are moving in the right direction but the problem is not so much coordination between CQC/NHS Improvement as coordination across systems.”

Figure 3:
To what extent do you think the regulators have coordinated their activity effectively over the last 12 months?



Consistent national messages

Feedback from our members through previous regulation surveys has raised the challenges they face because of having to navigate conflicting views from regulators and other arm's length bodies. We asked respondents about the extent to which they feel that the advice that their organisation received from the regulators has been consistent with policy making by other arm's length bodies. Almost half of respondents (47%) considered the advice received to be either 'very' or 'fairly consistent'.

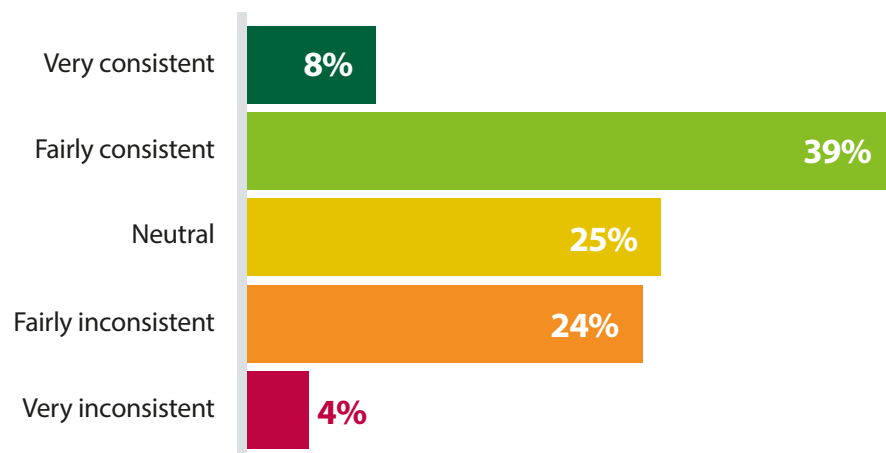
Recognise national bodies' efforts e.g. planning guidance and approach of the single oversight framework but there are clearly NHSI/NHSE tensions.

We have to balance money with performance and quality, the fact that this is very challenging is directly linked to the regulatory framework.

While there are signs of progress, in line with previous surveys, respondents felt that more consistent messages do not always shape regulators' actions in practice. Respondents also called for regulators to take a more joined up system-wide view rather than working within organisational silos. It was also clear that the different thresholds of proportionality that various regulators apply were also having an impact on consistency. It was also emphasised that mixed messages from NHS England and NHS Improvement remain an issue.

Figure 4:
To what extent has the advice your organisation has received from the regulators been consistent with policy making by other arms length bodies (such as NHS England and Health Education England) over the last 12 months?

(n=75)



Regulators' understanding of local pressures

The ability of regulators to provide effective improvement support and enable providers to develop locally tailored solutions in collaboration with their local partners is predicated upon a good understanding of local pressures and challenges facing providers.

As in previous years, respondents to this year's survey felt that regulators generally demonstrate a good understanding of the pressures NHS providers are facing. There was some variation across regulators with more positive views expressed about NHS Improvement's understanding, with 89% of respondents stating it showed a 'fairly' or 'very good understanding', in comparison to 48% of respondents who said the same about the CQC (figure 5). While an understanding of the pressures that providers are under is important, this is not sufficient unless reflected in the actions regulators take. As in previous years, respondents were more reticent about the degree to which this understanding is followed through in practice.

Don't doubt the understanding; their ability to act in response is a different matter.

While there is understanding, this is not seen through into actions.

While respondents reported having good working relationships with both the CQC and NHS Improvement at a regional level, with a higher degree of satisfaction for NHS Improvement (80%) compared to the CQC (61%) (figure 6), the survey findings do reveal some variation across regions.

Figure 5:
To what extent do you think the regulators understand the current pressures that NHS providers are facing?

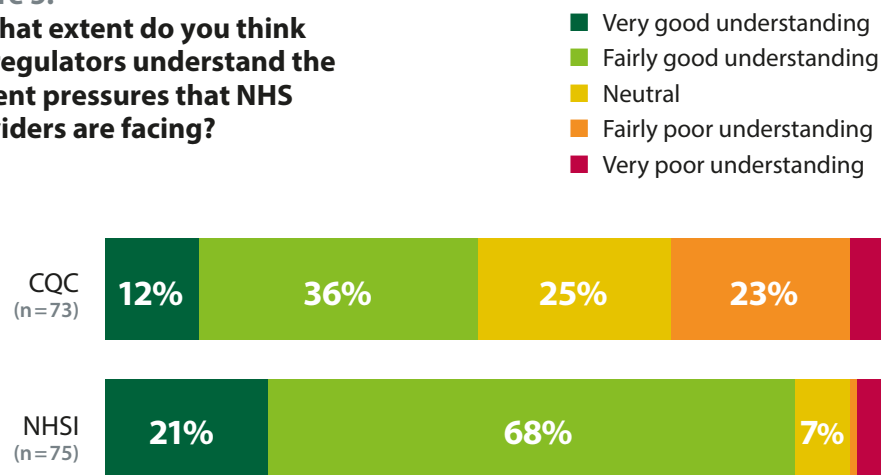
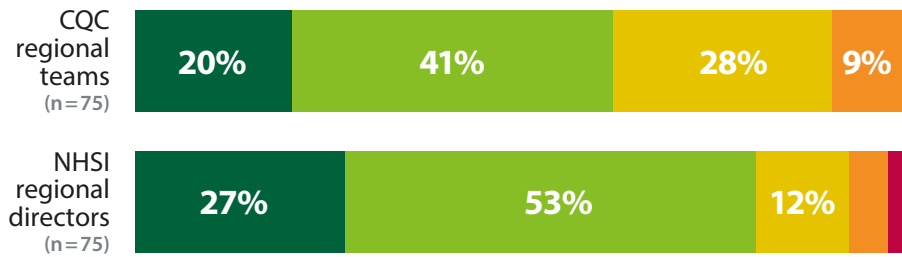


Figure 6:
**How satisfied are you with your
engagement over the past 12 months
with NHSI and CQC?**

- Very satisfied
- Fairly satisfied
- Neutral
- Fairly dissatisfied
- Very dissatisfied



REGULATORY BURDEN AND IMPACT

3

As in previous surveys, we asked trusts whether the overall regulatory burden experienced by their organisation had increased, stayed the same, or decreased over the last 12 months. The regulatory burden that NHS trusts and foundation trusts experience remains excessively high and is building up over time – overall, two thirds of respondents (68%) felt that the regulatory burden had increased over the last 12 months, a further 26% felt it had stayed the same and only a small minority (7%) felt it had decreased (figures 7a and 7b). This is the third of our surveys in which respondents have reported an increase in regulatory demands.

The pressure on trusts is exacerbated by growth in ad hoc requests, with 69% of respondents stating they have experienced a rise in the number of these requests over the last 12 months (figures 8a and 8b). Consistent with previous survey findings, views of increased burden were more predominant among respondents from foundation trusts than NHS trusts, indicative of the reduction in autonomy for foundation trusts.

Respondents attributed the greater volume of regulatory requests, often with shorter response times, to increased levels of scrutiny and a greater regulatory 'grip' in the face of a more challenging context operationally and financially. There was a strong sense that managing regulatory demands created additional workload, with a need to allocate additional resources in response to the proliferation of regulatory requirements. It was also emphasised that there is a lack of visibility around how regulators used the data they receive to inform the development of realistic and effective solutions.

“ *Additional ad-hoc requests. Additional weekend and bank holiday reporting. Less quarterly returns. Increase in financial reporting.* ”

“ *Significantly increased number and shorter and shorter response times.* ”

“ *Having to put more and more resources in to manage regulatory demands.* ”

“ *Particularly about operational delivery at a time when the focus should be on operational delivery.* ”

Figure 7a:
Has the regulatory burden experienced by your organisation increased, stayed the same, or decreased over the last 12 months?

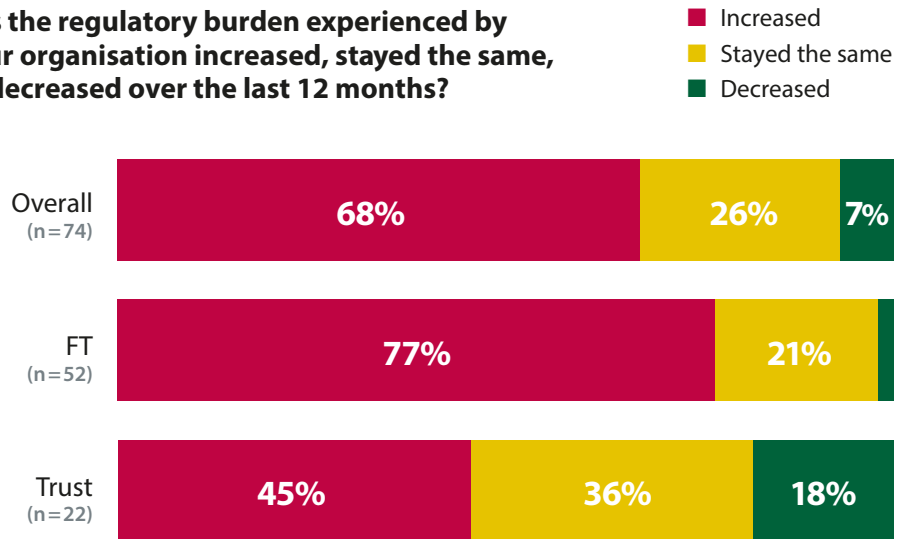


Figure 7b:
By trend.

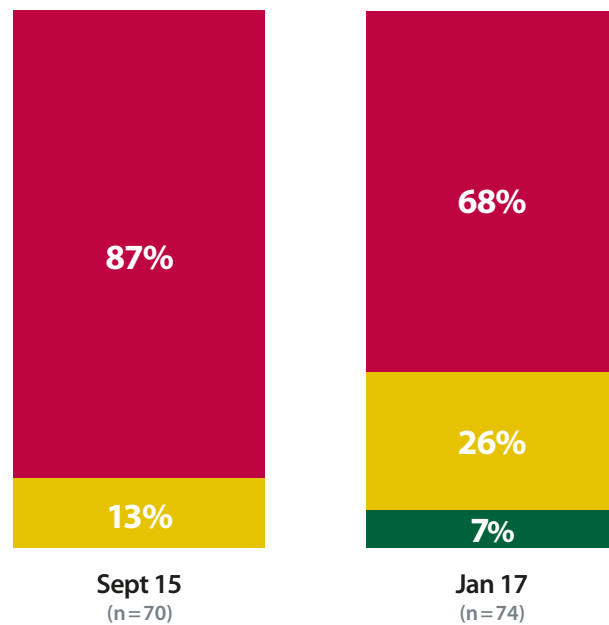


Figure 8a:
Have the number of ad hoc requests from the regulators increased, stayed the same, or decreased over the last 12 months?

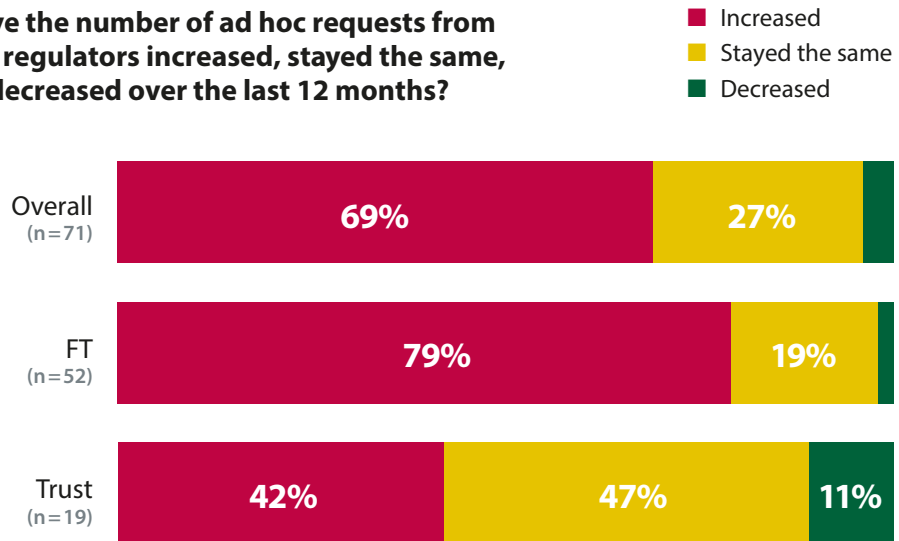
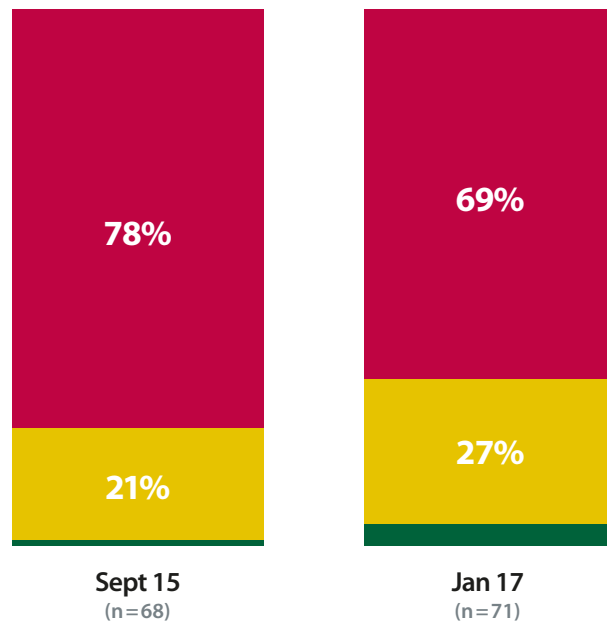


Figure 8b:
By trend.



Proportionality

It is important that the regulatory system is proportionate and risk-based and focused on assurance that boards are leading their organisations effectively.

In light of this, it is of concern that over half of respondents to this year's survey (55%) did not feel that the current reporting requirements of the regulators were proportionate to the levels of risk their organisation faces, a position that has hardly shifted since 2015 (figure 9). When breaking down the results by foundation trust status, a lower proportion of respondents from foundation trusts (32%) felt that the reporting requirements were proportionate.

Figure 9:

Do you think the current reporting requirements of the regulators are proportionate to the level of risk you manage?

■ Yes
■ No
■ Don't know



Respondents also felt that the increase in regulatory requirements did not necessarily support their trust to better manage risk. Crucially, while regulation may in the current context be relied upon as a tool to implement national policy decisions, one respondent explicitly noted the need to be honest about what regulation can achieve and that the system cannot rely on regulatory compliance and performance management as a means of addressing the underlying challenges it is facing or to implement national policy changes.

“Broadly – but whether rising reporting requirements enable better management of risk is a moot point.”

“Regulators mustn't be seen by the government as a sticking plaster to handle the huge financial and operational risks that the NHS faces. The big issue is to recognise and address these risks either by appropriate funding or changes in services requirements.”

Impact of regulation

Regulation was often seen as time consuming and resource intensive, pulling management and staff away from delivery and improving services, creating a distraction or resulting in added pressure at an already challenging time of having to cope with increased demand.

“ Staff are extremely busy meeting the increased needs of patients and much greater regulatory requests for involvement and information just increase the burden to the point of breaking the energy and morale of the staff.

“ Lots of last minute ‘urgent’ requests that interfere with other duties. Lots of time taken away from trying to improve services. Multiple reporting of the same information to different bodies. No real, effective support from national bodies to address national issues.

“ More reporting and less ability to manage things ourselves.

“ Additional resources required. There have been occasions when there have been constructive discussions with the regulators and this has helped with the delivery of our strategic aims and objectives. However, reporting requirements are a distraction especially at a time when there is a clear direction to meet control targets.

“ In some areas a distraction, in others has provided helpful insight or prompted required focus.

NHS IMPROVEMENT OVERSIGHT

4

The creation of NHS Improvement last year came at a critical time for the provider sector. Through the development and implementation of a new single oversight framework that applies equally to NHS trusts and foundation trusts, the newly-established organisation sought to recalibrate its approach with a greater emphasis on support and also enabling sector-led improvement. In this year's survey, we sought to gather our members' views on a range of aspects relating to the operation of the new oversight framework including the segmentation process, the support offer and trusts' experience of the balance between organisational autonomy and regulatory oversight and intervention. An important caveat is that the findings provide a snapshot in time, with the framework still being at a relatively early stage of implementation. That said, these early findings provide a valuable insight into how the framework is starting to bed in.

Trusts' perspectives on the segmentation process

The segmentation process determines the approach that NHS Improvement takes with trusts with regard to both oversight and support. The first formal segmentation took place in December 2016 with the majority of providers (60%) placed in segments 1 and 2. This is mirrored in our survey, with nearly three quarters of respondents to our survey (71%) allocated to segments 1 and 2, with the remaining placed in the lower segments. The survey asked respondents whether the segment to which their trust had been allocated under the oversight framework matched their expectation prior to the allocation. A majority (88%) agreed that this was the case. However, the need for greater clarity and transparency in relation to the process for making decisions about the overall segment was noted as an issue, along with an uncertainty around the steps trusts need to take to move between segments:

We expected to be placed in segment 2 due to the financial metrics – however have found that the NHSI SoF is very unclear in explaining how different performance in different themes will translate into an overall rating.

SEGMENT 2

Still not got the necessary definitions to know what we are being measured against and no one can explain the overall criteria/weighting which determines your actual segment.

SEGMENT 2

It is not very clear how NHSI have made this calculation. This needs to be made more transparent.

SEGMENT 2

Anticipated the segment but thought it would be for different reasons.

SEGMENT 2

Lack of clarity about how you move between segments and what is expected for some of the metrics.

SEGMENT 3

Early implementation experiences

The new oversight framework only became operational in October 2016 and will require time to bed down before its impact can be seen in full. In this year's survey, we took the opportunity to ask respondents to describe their early experiences of implementation of the framework. As would be expected, the general perception was that it would be too early to definitively judge the impact it has had, though respondents were supportive of the direction of travel.

Some respondents expected the reporting burden associated with the oversight framework to increase in the year ahead, in part linked to the themes which are still under development. Views also differed across types of trusts, with trusts in the mental health and community sectors expressing a view that the framework remains insufficiently tailored to those sectors.

For the known elements it has been relatively straightforward to link to our existing performance reporting but for those in developed linked to STPs and new care models we wait to see how these may be judged.

SEGMENT 2

We feel the application of the framework is unclear for mental health trusts as these metrics are underdeveloped in comparison with acute trusts.

SEGMENT 2

Too early to say. The general direction is good and regulators working together is welcome but the devil is in the details.

SEGMENT 2

Too early to say although initial involvement has been positive.

SEGMENT 2

Limited value for community services as there is a lack of key performance indicators (KPIs) developed.

SEGMENT 2


Perspectives on the support offer

Given the ambition through the new framework to move to a more supportive approach, we asked respondents for their views on the support their trust has received so far. Overall, respondents were positive with 54% indicating that the support had been 'very' or 'somewhat useful' (figure 10a). Positive examples of where good support had been provided included support received through the emergency care improvement programme and from the intensive support teams and the implementation of 'red to green' initiatives.

 *We have had some support in relation to finances and in some areas it reinforced what we were already doing (which is helpful) but in one or two areas it was good to get new tools and methodologies to introduce.*

SEGMENT 4


However, as was the case for the overall views on the oversight framework, nearly a third of respondents (30%) indicated that it was too early to express a view on the nature or value of support. In addition, the survey results reveal significant disparities between acute and non-acute providers – the considerably higher proportion of non-acute providers – 30% – reporting that support was 'not very' or 'not at all useful', compared to only 4% among acute providers (figure 10b), suggests a need for further work to be done to ensure that support offer is sector-appropriate. Views on the support offer varied considerably across England's regions. Addressing the consistency and suitability of the support offer across sectors and across regions will be an important for the success of the oversight framework going forward. Comments highlighted that the support offer remains under development. Respondents felt more positive towards support received at a local level, but more hesitant about central initiatives.

 *Limited support received but generally useful. Expect regional director appointments to add more value.*

SEGMENT 3

 *Local NHSI has been very supportive but appears at times to be at odds with more central and regional NHSI.*

SEGMENT 3

 *Support comprises listening only at present.*

SEGMENT 2

Figure 10a:
How useful has the support that your trust has received from NHS Improvement under the new oversight framework been?

Overall:

(n=73)

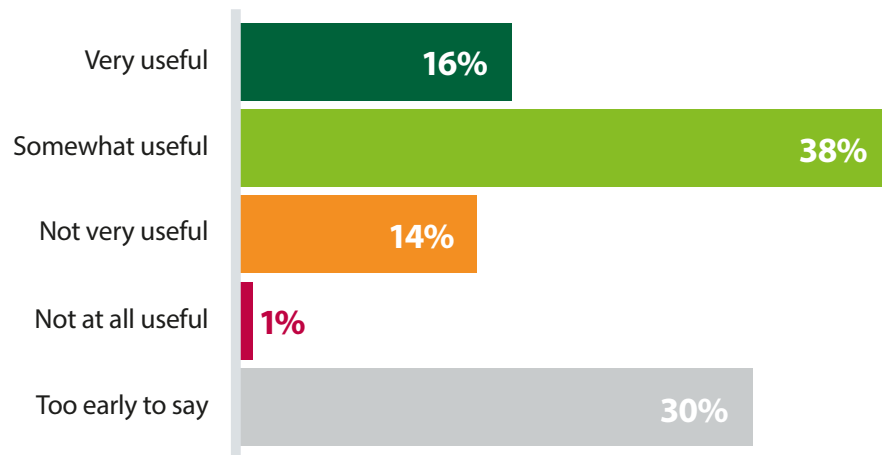
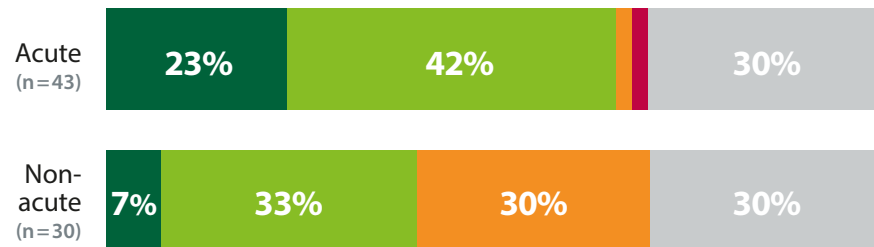


Figure 10b:
By trust type:



Balance between autonomy and support


A balance between provider autonomy and regulatory assurance is essential to ensure that provider boards remain empowered to drive their own improvement. Our previous survey highlighted the potential conflation of the roles of an improvement body and that of regulator as one of the concerns arising from the creation of NHS Improvement.

In this year's survey, we took the opportunity to ask respondents about the extent to which they feel NHS Improvement strikes a good balance between autonomy and support in its approach, as well as the extent to which it respects provider boards' local accountabilities. Overall the majority of respondents – 58% and 64% respectively – either agreed or tended to agree (figures 11a and 12a). However on both counts, views were less positive among respondents from foundation trusts (figures 11b and 11b) and this was also tempered by a sense of an erosion in the degree of autonomy than previously experienced, as illustrated by this respondent:


 *While I still agree with this, it is less so than under the Monitor regime.*
SEGMENT 2

The introduction of control totals was identified by respondents as a specific example of where a policy is inconsistent with local accountabilities and the autonomy of the board. The shift towards a more directive approach at the expense of a risk-based approach to regulation dominated feedback from respondents when asked about the impact of Monitor and the TDA coming together to operate as NHS Improvement. While respondents reiterated agreement with the logic of merging the two bodies and recognised the benefits of having a more consistent approach across all trusts, a recurring concern related to the autonomy of foundation trusts being diluted and a culture of performance management becoming more prevailing. Importantly, respondents highlighted a change in style “to be more supportive, but more hands on”.

 *It has changed the way the trust is overseen with more of a tendency to stray into managing than oversight and regulatory judgment.*
SEGMENT 2

 *Some of the more interventionist approaches of the TDA seem to have leaked in to the approach to FTs. This may be because its old wine in new bottles!*
SEGMENT 2


 *Made it worse as the TDA culture of performance management as opposed to risk based regulation seems to be the emerging culture.*
SEGMENT 2

 *Failed to realised foundation trusts are different and put us all in the same boat of more regulation – not helpful.*
SEGMENT 2

In terms of the creation of the NHS Improvement, other respondents referred to “still some bedding in of cultures and approaches” with disparities in the ways of working between Monitor and TDA not yet reconciled. Some raised concerns about focusing on financial management at the expense of other priorities under the oversight framework:

 *Messages from the NHSI senior team tend to be exclusively financial...*
SEGMENT 2

Furthermore, trust respondents in particular voiced specific concerns about the unclear future of the foundation trust pipeline:

 *Some improvements but significant uncertainty regarding the FT pipeline and whether this is now ‘dead’.*
SEGMENT 2


 *There has been no clear message about the FT pipeline which has been difficult for organisations who were about to move into or already in the final authorisation assessment phase. There should be a clear indication from the centre as to the direction of travel rather than silence.*
SEGMENT 2

Figure 11a:
NHS Improvement strikes a good balance between autonomy and support in its approach to overseeing providers.

Overall:

(n=74)

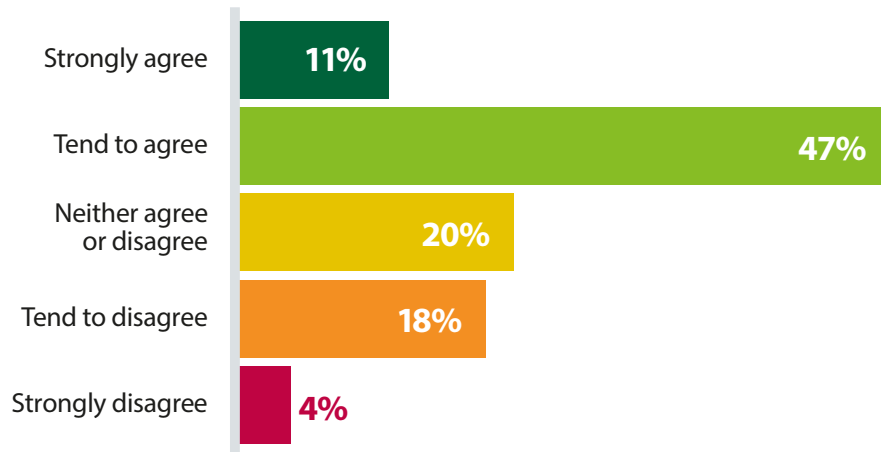


Figure 11b:
By FT status:

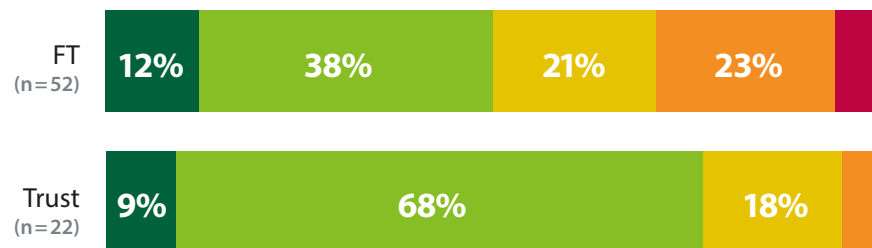


Figure 12a:
NHS Improvement respects the local accountabilities of trust boards in delivering high quality care and improving services.

Overall:

(n=71)

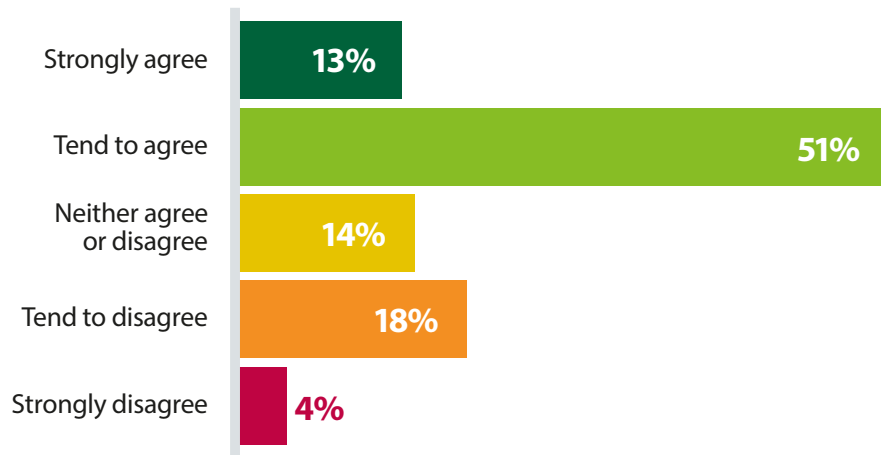
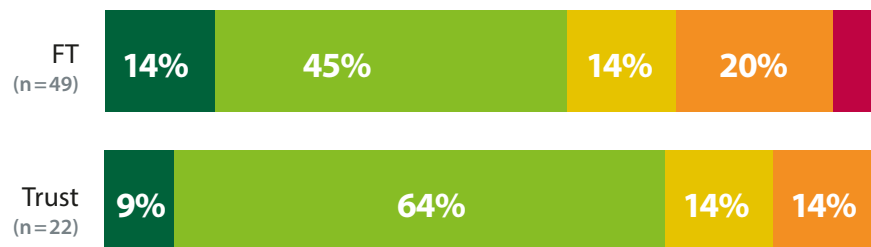


Figure 12b:
By FT status:



CQC INSPECTIONS

The CQC has now completed its inspection of all NHS foundation trusts and trusts under its programme of comprehensive inspections, giving the regulator a baseline of the quality of care across all trusts in England for the first time, as detailed in its recent *State of care*¹ and *State of care in NHS acute hospitals*² reports. In line with its five-year strategy, it has also consulted on moving towards a more targeted and responsive inspection model, which will see services rated 'good' or 'outstanding' inspected less frequently along with the introduction of a new 'Insights' model to support its ambition to become more intelligence-driven. The CQC's proposals represent an important step forward towards a more streamlined approach. The regulator has also introduced fee increases in order to move to a model of full recovery of its costs through the fees it charges providers.

As in previous surveys, we asked respondents whose organisation had received a CQC inspection in the last 12 months a series of questions about their experience of the current inspection regime process, along with their views on key elements that will underpin the proposed new model. 56 out of 76 survey respondents reported having a CQC inspection within the last 12 months. The findings echo feedback from trusts in the earlier stages of the comprehensive programme and reflect the basis on which the success of the new model, due to be rolled out from April 2017, will be judged.

Benefits and challenges

We asked respondents to describe the benefits and challenges of their CQC inspection. In terms of the benefits of their organisation's inspection, respondents felt that the process provided useful external validation of their performance and gave added impetus and focus to quality improvement initiatives already underway. It was also felt that CQC inspections provided the opportunity for high performing trusts to highlight areas of good practice.

External, independent confirmation of the quality of care and standards we provide. Areas of outstanding practice and areas where we could move from good to outstanding identified.

It provided an opportunity to highlight and demonstrate excellent and good areas of practice, a chance for staff to showcase.

Comprehensive report independently confirming most of our views. Improvements have resulted from the required actions.

1 <http://www.cqc.org.uk/content/state-care-report-warns-adult-social-care-approaching-tipping-point>

2 <http://www.cqc.org.uk/content/state-care-nhs-acute-hospitals>

In most cases, respondents reported that inspections validated what they already knew – consistent with findings from previous surveys, overall 26% reported that their inspection exposed areas of concern of which their board was not already aware, while the majority (74%) felt that their board was already aware of any areas of concern which their inspection highlighted (figure 13).

The main challenge highlighted by respondents related to the volume of data and evidence requests before, during and after an inspection and the size of the inspection teams along with the quality of inspection produced, the length of time it takes for producing those reports and concerns about the current process for moderating ratings.

“Resource intensive in terms of preparation, during the visit and post-visit documentary evidence requirements.

“Data requests brought the organisation to a near standstill.

“The sheer number of inspectors seems disproportionate.

“More targeted groups of inspectors with expert knowledge, rather than large multi-disciplinary teams that can overpower the organisation.

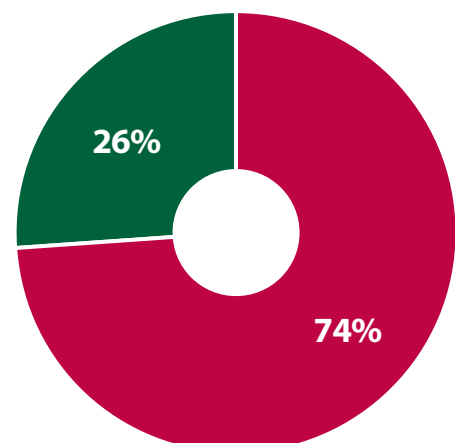
“Wasted effort in appeals process and moderation of ratings was opaque.

“Delay in producing a final report dissipates engagement experienced even during an unannounced inspection.

“Draft inspection report contained far too many factual errors. Too long between inspection and publication of the final report.

Figure 13:
Did the inspection highlight any areas of concern of which your board was not already aware?

■ Yes
■ No
(n=50)



Value of inspections

With its newly published strategy, the CQC is in a position to adapt its operating model to ensure it is responsive to changing context in the NHS, adds value and is sustainable. The need for the regulator to demonstrate effectiveness and value for money has been a persistent theme in our survey findings. Where providers have been faced with substantial fee increases as a result of the move by the CQC to recover its chargeable costs in full from providers, there must be a renewed focus on ensuring value for money. As in 2015, we asked respondents a general question on whether they felt the benefits their trust gained from the inspection justified the 'cost' in resources to the trust of preparing for, and hosting, the inspection team. 38% of respondents did not feel the benefits justified the costs involved, the same proportion felt they did and the rest were unsure (figure 14).

When commenting on the benefits versus the cost of inspections, respondents reported the positive impact that the inspection regime brought but felt that the same benefits could be achieved through a more streamlined approach. Further challenges identified by respondents were the need for the CQC to demonstrate significant progress in driving greater efficiencies in the regulatory model, the effectiveness of its activities and value for money in the context of the increase in the fees it has introduced.

Answered yes due to the outstanding rating and the benefits this has brought. We appreciate the external validation.

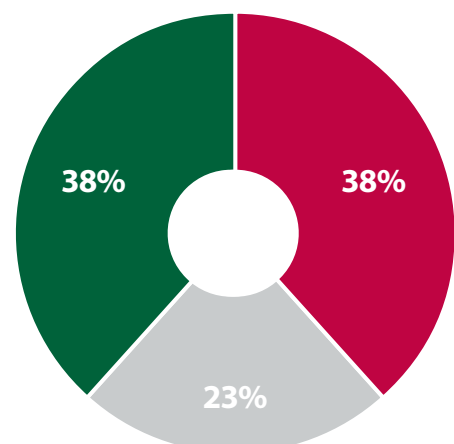
There are real benefits but the costs of this regime are very high and there should be a lighter touch model.

Probably... although we would probably have achieved the same benefit from circa 20 inspectors visiting.

We put intense effort into preparation and the inspection itself was intense. As chair focusing on governance I don't think this in itself is a bad thing. However the sheer cost on CQC side is disproportionate.

Figure 14:
Overall, do you feel the benefits that your trusts gained from the inspection team justified the 'cost' in resources to the trust of preparing for, and hosting, the inspection team?

■ Yes
■ No
■ Don't know
(n=52)



CQC's future approach

Underpinning the CQC's new approach is the introduction of a new insight model which the regulator will use to monitor quality, target its resources and help guide its next phase of inspections. We asked respondents whether they were confident that the CQC's new insight model would provide an accurate reflection and assessment of the risks to quality within their organisation. At the time of the survey, the CQC's consultation on its proposals to adapt its regulatory approach, which covered the new insight model, was ongoing.

With the new model due to be rolled out imminently, it is concerning that only 28% of respondents were confident that the proposed insight model will effectively measure risk to patient safety and quality (figure 15a). While this may not reflect a criticism of the new model, comments from respondents do reflect a need for the CQC to provide further detail about what this will entail. Overall, 44% of respondents were unsure. Notably, a larger proportion of non-acute trusts reported being 'neither confident or not confident' (52%), compared to 39% among acute trusts (figure 15b). This suggests that there is further work for the CQC to engage with mental health, community and ambulance sectors to ensure that the new model is fit for purpose across all the sectors that the CQC regulates and we are committed to working with our members and the regulator to achieve this.

Still understanding and assessing the impact of the new model and how this will operate in practice.

It needs to be tested outside of acute hospitals.

Another element of the new approach will be more frequent inspections of core services within set intervals based on prior ratings. The majority of respondents agreed with the proposed intervals for services rated 'inadequate', 'requires improvement' and 'good' (93%, 77% and 80% respectively). However, there was more ambivalence among respondents regarding the five year interval for services with an 'outstanding' rating.

Within the pace of change within the NHS, three to five years is too long. Within five years, a trust's performance could quite easily get worse.

The CQC has recognised the need to design a regulatory system that is able to appropriately reflect the changes in how care is being delivered. The development of new models of care is complex and happening at pace. Our survey responses reflect the need for the CQC to support members around these new models of care and not to create unnecessary barriers to their implementation. Likewise, the responses flagged the need for regulation not to penalise organisations where they are acting in the best interests of the wider system, such as through the STP or taking over services that are struggling.

“ There needs to be a realistic timescale for providers to turnaround failing services or providers will be deterred from taking on such services given the reputational damage they can bring to a trust as a whole.

“ Should not impact on rating for existing services for a defined period of time.

“ The CQC do need to make sure that their inspection regime keeps up with these [innovative models of care] but also the collaborative working that STPs will bring.

Figure 15a:
How confident are you that CQC's new *Insight model* will give an accurate reflection and assessment of the risks to quality within your organisation?

Overall:
(n=75)

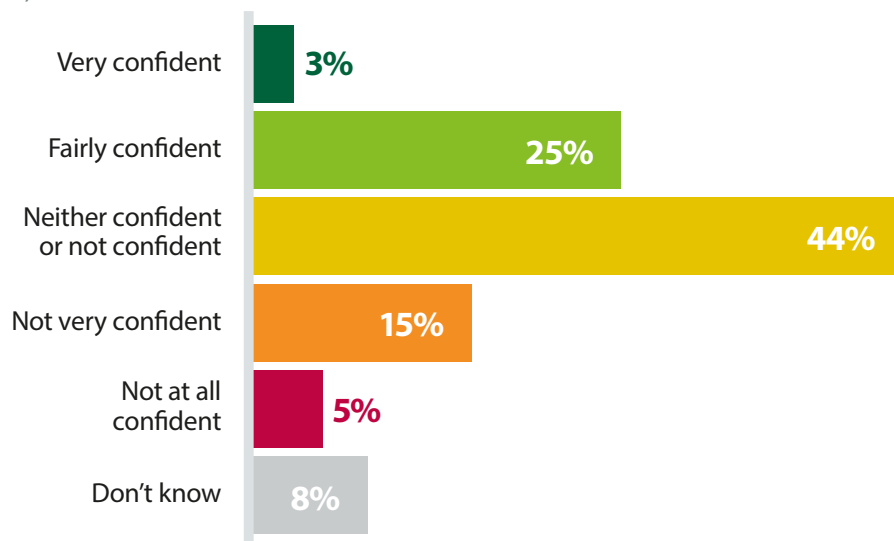
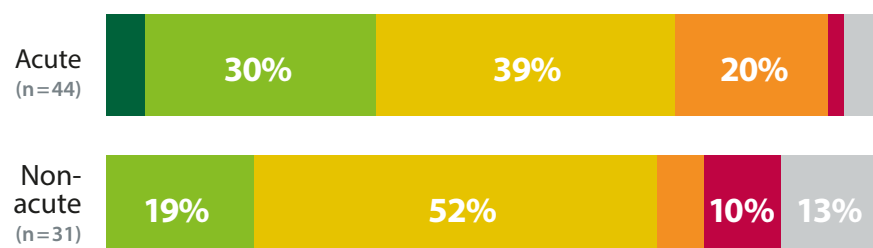


Figure 15b:
By trust type:



CONCLUSION

The results of this year's survey show a perception among trusts that the regulatory environment may be starting to move in the right direction, with the regulators' efforts to ensure better alignment and consistent messages are starting to gain a welcome momentum. However there is still further progress to be made in ensuring the current regulatory frameworks are coordinated and provide value for money. The overall burden of regulation is still seen by NHS trusts and foundation trusts to be excessive, impacting heavily on individual trusts and absorbing considerable time and resources at a time of stretched capacity.

Respondents to the survey described a situation in which autonomy is increasingly restricted and a more interventionist approach by regulators ever present. While feedback from trusts shows that they are open to receiving support, the survey also shows doubts about the effectiveness of regulatory intervention if it does not deal with the underlying causes of the current pressures facing the sector.

It is crucial in the current environment for the regulators to recognise that the improvement agenda is most effectively owned and led at a local level by provider boards and that regulation alone cannot drive improvement, overcome financial challenges or act as substitute for strong and effective leadership.

Next steps

We are committed to working with our members and the regulators to maximise the value and benefits delivered by the current regulatory framework and how it is developed in the future. We hope that the results of this survey can help support this. We have an ongoing dialogue with the regulators and will consider the results of this survey in collaboration with them to ensure our members concerns are acted on and 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.

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 focused, 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 95% of all NHS foundation trusts and aspirant trusts in membership, collectively accounting for £70 billion of annual expenditure and employing more than 964,000 staff.



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