NHS Providers

REGULATION, REFORM AND SERVICES UNDER PRESSURE

Regulation survey report 2022

JULY 2022

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CONTENTS

Key points 4

1 Introduction 5

2 About the survey 7

3 Main findings 8

4 Care Quality Commission 14

5 NHS England and NHS Improvement 21

6 Coordination between CQC and NHS England and NHS Improvement 24

7 Conclusion 25

8 Appendix 26

KEY POINTS

- Both the Care Quality Commission (CQC) and NHS England and NHS Improvement (NHSE/I) have recently updated their regulatory frameworks to signal a shift in approach in line with the move to system working.
- Our regulation survey was carried out in April-May 2022, when trusts were preparing to become part of statutory integrated care systems (ICSs), taking stock of the COVID-19 pandemic, and dealing with unprecedented operational pressures. Nonetheless, 63% of all trusts, across all regions and trust types responded, demonstrating providers' sustained interest in effective regulation.
- Trusts expressed strong support for the policy direction being taken by regulators. An overwhelming majority supported CQC's planned shift towards a more risk-based approach, data monitoring, and its intention to update ratings more frequently. Similarly, a large majority of trusts were supportive of the collaboration and system focus seen in NHSE/I's new system oversight framework (SOF) and its oversight metrics.
- However, trusts did not report experiencing the benefits of this shift in strategic direction in practice. Trust leaders reported an increase in the regulatory burden and the number of ad-hoc requests from regulators over the past year. Many felt that regulators were not mindful of the ongoing pressures they were facing linked to the COVID-19 pandemic and its after-effects. This was especially true for mental health and learning disability trusts.
- While they support CQC's new approach, trust leaders did not feel that the benefits of their most recent inspection justified the cost in terms of time and resource. Many commented on the need for CQC to develop further its approach to assessing systems and pathways of care, rather than individual providers in isolation, as well as the need for it to focus on supporting trusts to improve and collaborate.
- Although positive about the direction of the new SOF, trusts still perceive it as a performance management, rather than a support tool. They expressed concerns over the number of metrics, the justification of segmentation decisions, and the clarity of criteria for moving between segments.
- Trust leaders recognise that changes will take time to develop and become embedded. However, this survey suggests there is more work for regulators to do to clarify responsibilities and accountabilities in the new statutory framework, to become more transparent, and to consistently model the right behaviours, skills and expertise.
- We look forward to working with CQC and NHS England over the year ahead, alongside trust leaders, to further develop the approach to regulation, as ICSs become embedded following the passage of the Health and Care Act.

1 INTRODUCTION

This report is based on the findings from our seventh annual regulation survey, which was carried out in April to May 2022. Our regulation survey explores NHS trusts' and foundation trusts' experiences of regulation over the previous 12 months. This year's survey captures a unique moment in time, as trust leaders took stock of the COVID-19 pandemic and unprecedented operational pressures, while looking to a future of transformation across the health and care landscape, as ICSs were placed on a statutory footing.

In April 2022 the Health and Care Act received royal assent, formalising the biggest legislative change in the NHS in a decade. The Act puts ICSs and the Health Services Safety Investigations Body (HSSIB) on a statutory footing and formalises the merger of NHS Improvement with NHS England. In addition to these structural reforms, it builds on the ambitions set out in the NHS Long Term Plan, emphasising prevention, integration of services, and reducing health inequalities. Importantly, the new legislation gives CQC a formal role in relation to systems. As a result, the regulator will now be reviewing and assessing ICSs, as well as local authorities with regard to their duties in adult social care.

Reflecting this new set of structures and priorities, the key regulatory bodies for trusts – CQC and NHS England – have also signalled a clear shift in their approaches to regulation and oversight.

The regulatory context

Care Quality Commission

In April 2021 CQC published its new strategy, signalling a move to a "smarter", more dynamic and flexible style of regulation, driven by the needs of people and communities and focused on learning and improvement. The aim of the strategy is to modernise and streamline CQC's regulatory approach, but also to make it relevant to the new system context.

As we mention above, the new legislation has given CQC a formal role in relation to systems. As a result, the regulator will now be reviewing and assessing integrated care systems, as well as local authorities with regard to their duties in adult social care.

CQC is currently working with stakeholders to develop a new single assessment framework, which will apply across providers, systems and local authorities and will be operational from April 2023. It will be based on a set of quality statements, intended to reflect people's experiences and expectations of care, as well as on new evidence categories. It will introduce a more granular system of scoring and rating services, which will be regularly updated. The intention behind this is to provide a more nuanced and up-to-date picture of quality.

1

NHS England and NHS Improvement (now NHS England)

In June 2021 NHSE/I published its system oversight framework (SOF) for 2021/22, which also reflected the shift towards system working. The framework applied to providers, commissioners and integrated care systems alike. It set expectations of how these partners should work together to deliver care, and explained how NHSE/I would monitor performance. The SOF introduced new oversight metrics, as well as a new recovery support programme (RSP) for poorly performing providers, commissioners and systems, which replaced the previous quality and finance 'special measures' regime.

In late June 2022, NHSE/I published a refreshed version of the SOF for 2022/23, to bring the 2021/22 framework up to date for the official launch date of ICSs on 1 July 2022. Our survey, however, explored trusts' experiences and views of the SOF for 2021/22, which they have been using since November 2021.

The regulator has been hearing feedback around the SOF's application, the clarity of roles and functions between NHSE/I and ICSs, as well as the validity and durability of its metrics. Such feedback will hopefully inform the next iteration of the SOF for 2023/24, to be published by the newly merged NHS England, which will be subject to a full review and consultation later this year.

The provider context

In the midst of these changes to the statutory framework, during 2021/22 the provider sector has faced a challenging operational task encompassing the ongoing COVID-19 pandemic, and its legacy in the form of unprecedented pressure on urgent and emergency care, alongside care backlogs, growing elective care waiting lists, and increasing demand for community and mental health services. This has been compounded by ongoing staff shortages, along with capacity shortages in social care.

This report highlights the importance of ensuring regulation is sensitive to the pressures that providers are facing and avoids placing an unnecessary additional burden on them. It reflects the need for regulation that adapts quickly in response to changes in the external environment, remaining proportionate, coordinated and easy to navigate – trusts value regulators who act as a partner able to provide a reality check and a trigger for improvement.

We are grateful to all trust leaders who responded to our survey and whose views are reflected in this report. We are also grateful to CQC and NHSE/I who advised on some of our questions and have been working with us and our members in refining their regulatory approaches.

2 ABOUT THE SURVEY

In April/May 2022 we surveyed chairs, chief executives and company secretaries for their views on the regulatory and oversight framework in which they operate. This is the seventh in our series of annual surveys exploring members' experience of regulation and oversight over the previous 12 months. This year's survey has had the highest response rate ever – 132 responses, representing 63% of the provider sector. All regions and trust types are represented.

Aware of the pressures they are facing, we are grateful for the time and attention trusts have given to their responses. In addition to the survey findings, our analysis and commentary in this report is informed by our ongoing engagement with trusts, and the experiences they have shared in our conversations with the regulators and beyond.

In this report, where we refer to 'the regulators' and 'national bodies' we mean CQC and NHSE/I, as these were the key regulatory bodies for providers in 2021/22.

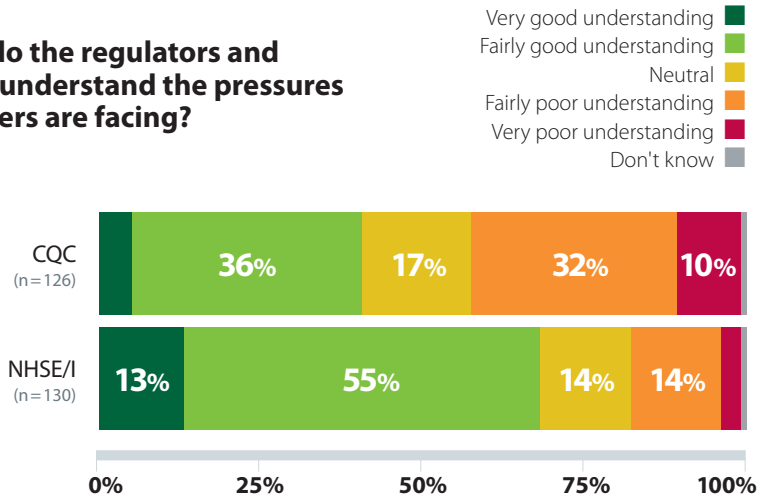
Throughout the report, when making comparisons with previous years, we have used our 2019 and 2018 survey results. The results from our 2020 survey are not directly comparable, as questions were changed to reflect the immediate challenges of the pandemic. We did not carry out our survey in 2021 because of the pandemic. This year we have reverted to the wording used in 2019, to enable comparisons with the pre-pandemic era.

3 MAIN FINDINGS

Perceptions of regulation

In the past 12 months operational pressures in the NHS have intensified. The pressures have affected all sectors, with backlogs of care, high levels of demand in urgent and emergency care, significant issues with discharge, and ambulance handover delays, compounded by staff shortages and burnout. However, while the operational challenge has intensified, our survey demonstrates that trusts feel increasingly less confident that regulators understand the pressures they are facing, or are factoring this context into their approach to regulation and oversight.

Figure 1
To what extent do the regulators and national bodies understand the pressures that NHS providers are facing?



NHS England and NHS Improvement

Just over two thirds (68%) of respondents said NHSE/I had a good (very good or fairly good) understanding of the pressures NHS providers are facing. This compared with 74% in 2019, and 75% in 2018. Those who thought the regulator's understanding was poor (very poor or fairly poor) have increased to 17% this year, as compared with 14% in 2019, and 12% in 2018.[1]

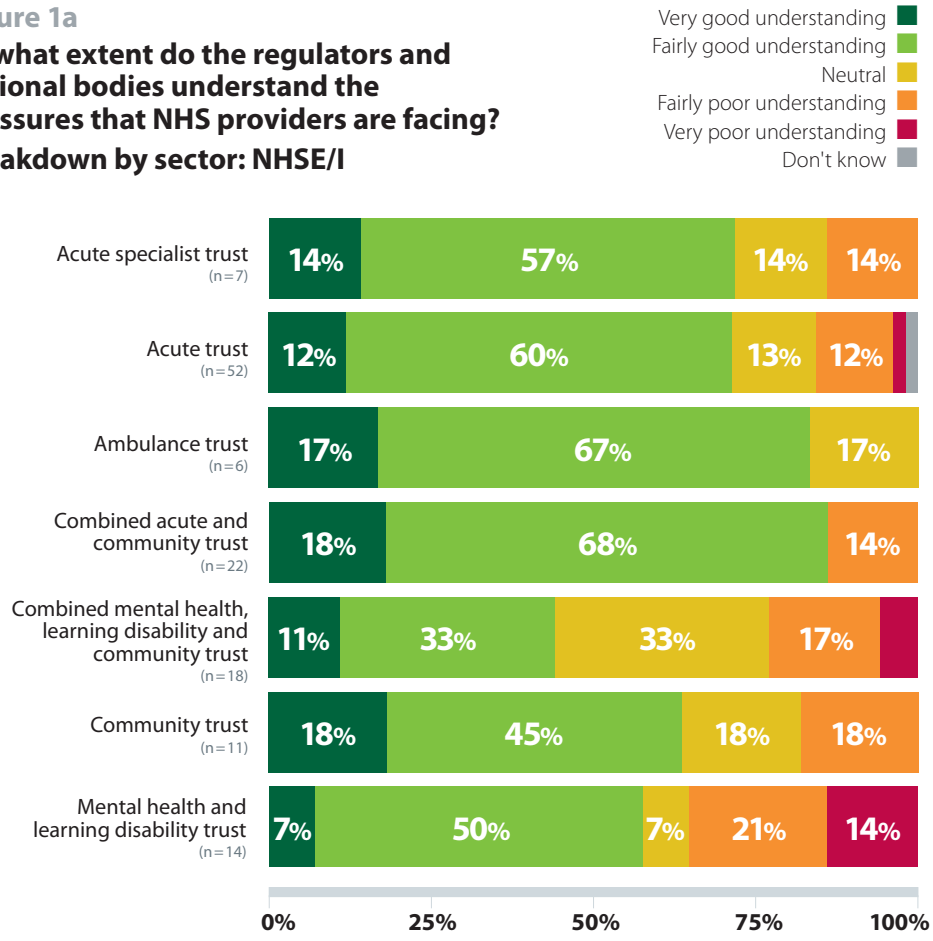
It is worth noting that responses varied by trust type. Ambulance trusts (84%) and combined acute and community trusts (86%) were most likely to feel that NHSE/I had a very good or fairly good understanding of the pressures. That compared with only 57% of mental health/ learning disability trusts who felt the same way, and 35% rating its understanding as poor.

1 Please note, this question was changed slightly in the 2020 survey to reflect views before and during the pandemic, so is not directly comparable to other years.

Figure 1a

To what extent do the regulators and national bodies understand the pressures that NHS providers are facing?

Breakdown by sector: NHSE/I



Care Quality Commission

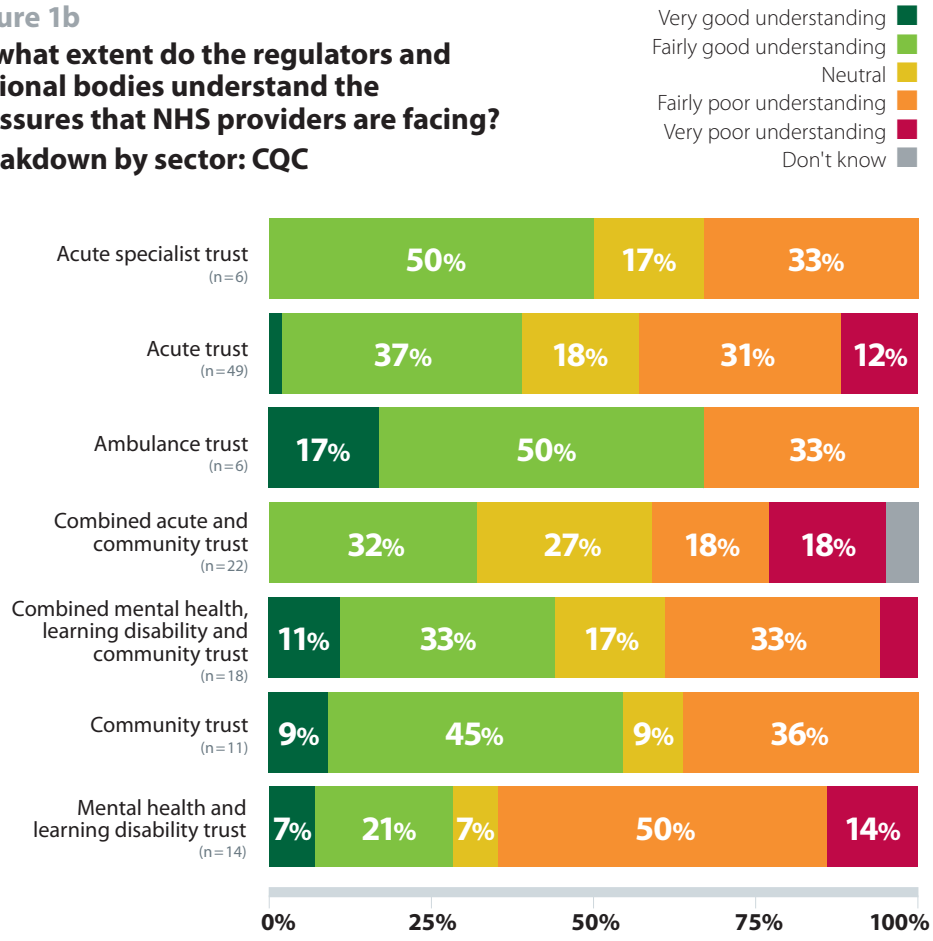
There was an even greater shift in perceptions relating to CQC, with 41% rating CQC's understanding of provider pressures as good. This marks a dip of around 10 percentage points compared with 2019, when 52% described CQC's understanding as good, and a dip of further 10 percentage points compared with 2018, when positive perceptions of CQC's understanding stood at 62%.

Responses again varied by trust type, with ambulance trusts having the highest proportion of respondents who thought CQC had a good understanding of the pressures that NHS providers are facing (67%), followed by community trusts (54%). Mental health/learning disability trusts had the highest proportion of respondents who thought CQC had a very poor or fairly poor understanding of the pressures faced by NHS providers (64%), followed by acute trusts (43%).

Figure 1b

To what extent do the regulators and national bodies understand the pressures that NHS providers are facing?

Breakdown by sector: CQC



Regulatory burden

In similar vein, we have seen deterioration in trusts' perceptions about the burden that regulation places on them. We asked providers whether they thought the regulatory burden and the number of ad hoc requests from regulators had increased, decreased, or stayed the same during the past 12 months. These findings measure the perceived combined burden of regulation from CQC and NHSE/I.

- Just under two thirds (63%) of trusts felt that the regulatory burden had increased over the last 12 months, and only 7% felt it had decreased. In 2020 providers experienced significantly less regulatory activity than in previous years due to the pandemic. Some of the increase may therefore be a result of regulatory activity returning to a more normal pattern. However, if we compare these results with the period before the pandemic, we can see that in 2019, 38% felt the burden had increased and 16% felt it had decreased.
- Perceptions of burden varied by sector. These ranged from a high of 88% among acute specialist trusts who felt the regulatory burden had increased, to a low of 45% among community trusts.

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- A reported increase in the number of ad hoc requests from regulators tells a similar story. In total 61% of trusts said these have increased in the past 12 months, while 6% said they had decreased. This compares with 45% and 8%, respectively, in 2019.
- Responses varied again by trust type. The highest proportion of respondents who thought ad hoc requests had increased were from combined acute and community trusts (83%), followed by acute specialist trusts (75%). Respondents from mental health/ learning disability trusts were the least likely to think ad hoc requests had increased (36%) and had the highest proportion who felt they had decreased (21%).

Trust representatives have consistently commented on the increasing burden of regulation, and the confusion of responsibility and reporting lines in the new system architecture. Beyond the increasing burden, trust leaders also raised concerns about the approach taken by NHSE/I, relating both to behaviours and increasingly complex lines of reporting.

> *The arrogance and bullying continues to get worse.*
>
> CHIEF EXECUTIVE, ACUTE TRUST

> *Not only have the number of requests increased but now they are coming from multiple levels, ICS, regional and national.*
>
> CHIEF EXECUTIVE, COMBINED ACUTE AND COMMUNITY TRUST

Comments were also made on the lack of clarity and focus in regulation, as well as a perceived emphasis on auditing and control, ahead of driving improvement. There was a feeling that the acute sector was much better understood than the mental health or community sectors.

Trusts expressed specific concerns about multiple and duplicative requests from regulators, and their unrealistic expectations. These stemmed from insufficient alignment between regulators, and added to the regulatory burden.

In their comments to the survey, and in conversations we have held with them over the past year, trust leaders describe a disconnect between the approach and messaging from regulators at a national level, as opposed to locally or regionally. For example, there were comments around NHSE/I's regional teams being more understanding and supportive of challenges trusts experience than its national team. Conversely, there was support for CQC's national-level narrative around consistent, risk-based regulation, but trust leaders contrast that with the approach taken by CQC's local inspection teams.

A common theme in members' comments was the feeling that regulators have not been sympathetic enough to the COVID-19 situation and the ongoing pressures the provider sector is facing. For example, some commented that CQC inspectors were not willing to listen to staff sharing their concerns about workforce pressures and delayed transfers of care related to the pandemic, which were having a serious impact on services. They felt that the context had not been sufficiently reflected in CQC's inspection judgements.

3

> *There needs to be more recognition of the context we are operating in. Not a dilution of standards, but the reasons as to why these may not be being achieved need to be better understood and reflected in any inspections or reports.*
>
> CHIEF EXECUTIVE, COMBINED ACUTE AND COMMUNITY TRUST

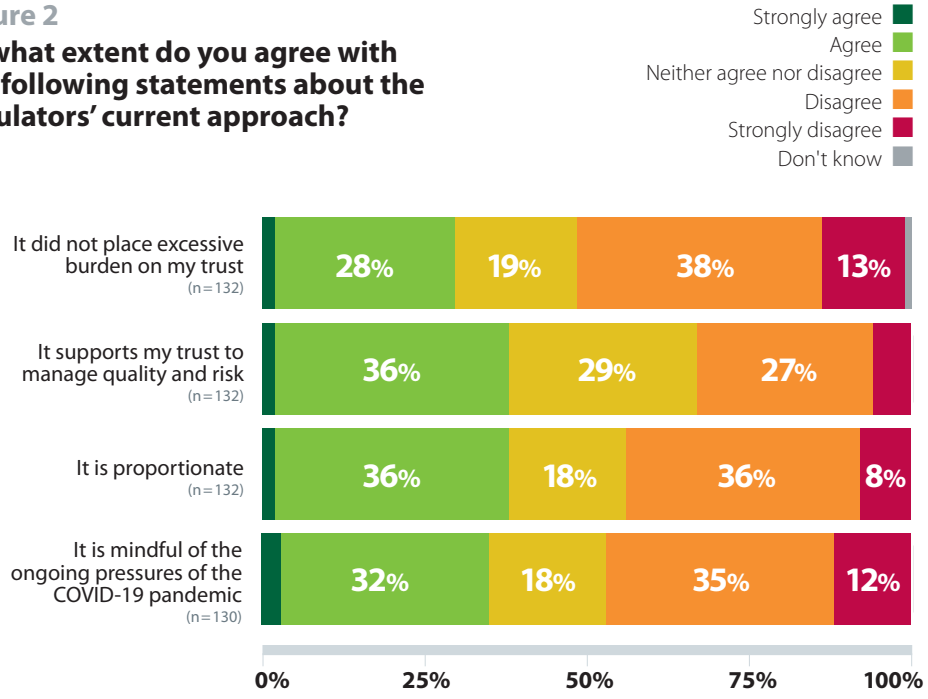
The themes discussed above are clearly reflected in Figure 2, which explores specific statements about regulators' current approach.

- Over half of respondents (51%) felt that regulation placed an excessive burden on their trust. This, however, varied by trust type. While 58% of acute trusts and 57% of mental health/learning disability trusts felt that regulation placed an excessive burden on their trust, only 17% of ambulance trusts and 27% of community trusts felt that was the case.
- More respondents disagreed (47%) than agreed (35%) that regulators were mindful of the ongoing pressures of the COVID-19 pandemic. These perceptions varied again between sectors: 83% of ambulance trusts thought regulators were mindful of COVID-19 pressures, compared with only 14% of mental health/learning disability trusts.
- Similarly, 44% of respondents felt that regulators' approach was not proportionate while 38% said it was. Mirroring the findings on COVID-19 pressures, ambulance trusts were most likely to say the regulators' approach was proportionate, while mental health/learning disability trusts were least likely.
- Views were more positive with regard to regulators supporting trusts to manage quality and risk – 38% agreed that this was the case, compared with 33% who disagreed. There were differences between sectors here too, consistent with findings reported above: 67% of ambulance trusts and 63% of acute specialist trusts felt they were supported to manage quality and risk, while only 14% of mental health/learning disability agreed with this.

> *I understand the need for information and regulation, but it's growing disproportionately to any benefits this brings.*
>
> CHIEF EXECUTIVE, ACUTE TRUST

Figure 2

To what extent do you agree with the following statements about the regulators' current approach?



4 CARE QUALITY COMMISSION

Since the publication of its new strategy and in the ongoing conversations with providers, CQC has signalled a clear and welcome shift in its approach. It has committed to a leaner, more proportionate and risk-based approach, with a stronger focus on safety, leadership, and a smart use of data and intelligence. The intention is to create a system of regulation which is more flexible, relevant and fit for purpose, aligned to system working, able to measure quality of care across pathways and help tackle health inequalities.

Views on CQC's new regulatory approach

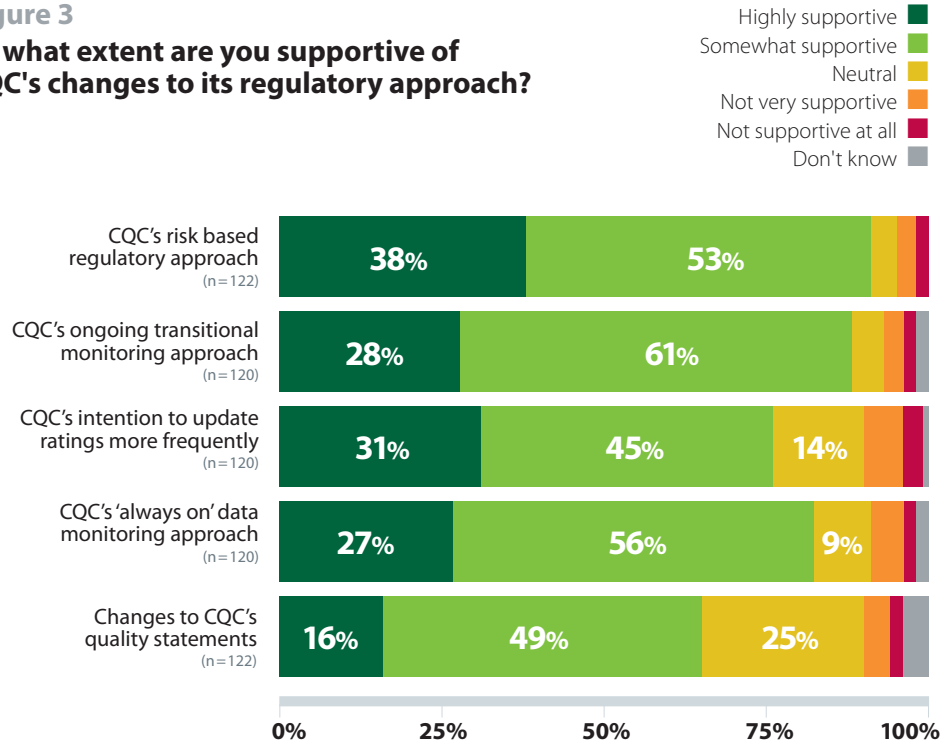
As a result of the pandemic, providers are already working more collaboratively as part of systems, and they appreciate the new approach CQC has committed to. Our survey shows overwhelming support for CQC's new risk-based approach – 91% of respondents were highly supportive or somewhat supportive.

A similarly high percentage (89%) were supportive of CQC's ongoing transitional monitoring approach, which aims to prioritise its activity with a focus on safety. More than four in five trust leaders (83%) supported CQC's 'always on' data monitoring approach, which has moved away from scheduled inspections and aims to be more flexible and responsive to changes in quality and safety within services.

There were high levels of support for CQC's updated inspection methodology. Just over three quarters of respondents (76%) supported CQC's intention to update ratings more frequently, in order to provide an up-to-date picture of quality. Nearly two thirds (65%) were supportive of changes to CQC's quality statements, which are now being framed as 'We' statements.

Figure 3

To what extent are you supportive of CQC's changes to its regulatory approach?



Trust leaders agreed with changes to CQC's approach, but were waiting for these to be realised in implementation – for example ensuring the new approach is equally applicable to all sectors:

> *A positive step but must be reflective of the different sectors and not fall into the trap of retrofitting everything around hospital services and operating models.*
>
> CHIEF EXECUTIVE, AMBULANCE TRUST

Respondents highlighted the importance of the quality of data and its interpretation. Some pointed out that the data CQC uses is outdated, and others commented that some sectors have limited or low data sources (for example the community and mental health sectors), which may be a barrier.

4

Trusts also recognise that CQC's new regulatory approach would only work if it accounts for system working, and the complexity and interrelatedness of many of the issues the sector is currently facing:

> *There is increasing recognition that trusts are not 'islands' but operate within a highly complex system. Yet the solutions to problems, seen at the time of inspection, are often to be found in shared/joint solutions. There should be greater recognition of this so that recommendations are framed within the areas that the trust has influence over and the areas where responsibilities are shared or lie outside of the trust's direct control.*
>
> CHIEF EXECUTIVE, ACUTE TRUST

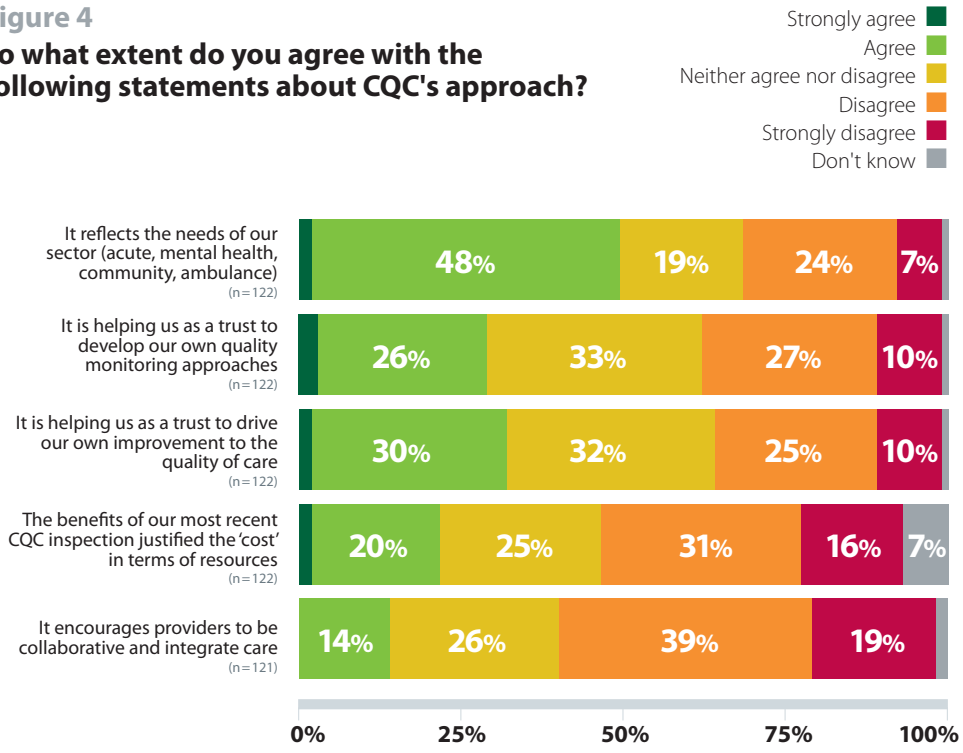
Experiences of CQC regulation

In contrast to the overwhelming support for CQC's new modern and flexible approach, providers were less positive about their current experiences of the CQC.

- Half of respondents (50%) agreed that CQC's approach reflects the needs of their sector, and 31% disagreed.
- Just under a third of respondents agreed that CQC's approach is helping them develop their own quality monitoring approaches, and their own improvement in the quality of care.
- Almost a third agree (32%) that CQC's approach is helping them as a trust to drive their own improvement in the quality of care.
- An even smaller proportion of respondents (22%) agreed that the benefits of their most recent CQC inspection justified the 'cost' in terms of resources spent to prepare and host the inspection team.
- Only 14% agreed that CQC's approach to regulation encourages providers to be collaborative and integrate care, while 58% disagreed.

Figure 4

To what extent do you agree with the following statements about CQC's approach?



Comments showed that trust leaders feel that CQC, despite its evolving strategic approach, is still predominantly focused on individual organisations, rather than pathways or systems. More clarity was needed on its approach to regulating systems, places and provider collaboratives.

> *The responsibility and accountability of individual trusts to meet CQC requirements and inspection of individual trusts does not encourage collaboration or look to address root causes that may exist outside individual organisations.*
>
> COMPANY SECRETARY, ACUTE TRUST

There was also a perception that, by focusing on individual organisations, CQC was still unable to identify system problems and encourage system solutions:

> *While the regulatory framework is helpful for trusts, I do not currently feel that the CQC approach reflects the issues and pressures that exist within our system and the impact of these on our trust performance.*
>
> CHIEF EXECUTIVE, COMBINED MENTAL HEALTH, LEARNING DISABILITY AND COMMUNITY TRUST

4

CQC inspection activity

In our survey we asked trusts about the types of CQC inspection they had undergone in the past 12 months. We found that the majority of respondents (61%) had undergone a focused inspection, in contrast with just under a third of respondents, who had undergone a core service with well-led inspection. A very small number – just 8% of trusts – reported experience of a comprehensive inspection in the past 12 months. This trend is consistent with CQC's decision to scale back its inspection activity in response to the COVID-19 pandemic, and gradually resuming it in 2021.

We probed trusts' experience of a well-led inspection with an open-ended question asking how helpful it had been for their organisation. Some respondents highlighted the administrative burden required and the difficulty in sourcing appropriate settings for interviews under the infection prevention and control guidelines at the time.

However, others found that well-led inspections were helpful in confirming what they already knew, and in some cases led to a beneficial outcome such as a re-rating, or a recommendation to remove the trust from the recovery support programme. Some mentioned that the interviews were thorough and that the inspections were fair and proportionate.

> *The team was smaller than we had previously experienced and inspectors were suitably experienced. The report was a fair representation of us as an organisation. A significant amount of preparatory work was required by a large number of individuals in advance and it was a logistical challenge to manage rooms (in the midst of COVID-19 restrictions) for interviews in person.*
>
> CHIEF EXECUTIVE, MENTAL HEALTH AND LEARNING DISABILITY TRUST

4

CQC's new powers to review and assess ICSs and local authorities

We asked trust leaders about their opinion on the important factors for CQC to consider as it develops its approach to assessing the performance of systems, including its new single assessment framework for ICSs, local authorities and providers.

We received a large number of responses to this question. The main emerging themes were:

- clarifying where responsibilities and accountability lie, in terms of statutory and regulatory responsibilities and making sure risks in the system are managed
- clarifying the approach to regulating providers within provider collaboratives
- building on existing work to offer more consideration of whole pathways of care, rather than individual providers in isolation
- assessing collaborative working across a whole system, including at an ICS and place level, and appropriate involvement of local authorities and the wider health and care sector
- identifying the difference between 'commissioning gaps' and gaps in provision, including appropriate consideration of social care capacity
- focusing on outcomes for patients and the population, including a clear focus on health inequalities
- making sure the voice of users and staff is taken into account and acted upon
- focus on a culture of improvement in systems
- consideration of financial and workforce challenges within systems
- assessing providers which span multiple ICSs (such as ambulance trusts).

> *How practically the entire system is assessed, including how the regional providers who span multiple ICSs are taken into account, without undue burden relating to multiple ICS inspections.*
>
> COMPANY SECRETARY, AMBULANCE TRUST

Some respondents also mentioned the importance of having a CQC team that understands system working and integrated care, ideally having experience of working in systems.

> *That assessments consider the whole pathway approach. That CQC teams reflect better the integrated system approach with a mixed skill set and experience amongst inspectors. Ideally inspectors need to have experience working in a system way themselves.*
>
> CHIEF EXECUTIVE, COMBINED MENTAL HEALTH, LEARNING DISABILITY AND COMMUNITY TRUST

Respondents also highlighted that the whole system is currently undergoing change and CQC needs to be mindful of that, accounting for both the different levels of development between ICSs and the tensions within systems.

> *Proportionality is always key and inevitably we will be undergoing changes to the system and also the organisations within it. This will be alongside many other drivers for both the system and the providers. CQC need to balance all of these activities and be part of the solution rather than the problem.*
>
> CHAIR, ACUTE TRUST

5 NHS ENGLAND AND NHS IMPROVEMENT

NHSE/I's system oversight framework (SOF) for 2021/22 was the first to incorporate ICSs alongside trusts and clinical commissioning groups (CCGs). It aims to balance an objective set of measures for effective system oversight, and a degree of flexibility to account for local circumstances. As with previous SOFs, it places trusts and systems into four segments, introducing a new national recovery support programme for systems, trusts and CCGs in segment 4.

The framework was built around the five national themes from the NHS Long Term Plan (LTP):

- quality of care, access and outcomes
- preventing ill health and reducing inequalities
- people
- finance and use of resources,
- leadership and capability.

It also includes a sixth theme focusing on local strategic priorities.

The SOF is applied by the use of a **single set of metrics**, which apply equally to ICSs, trusts, CCGs and primary care. These metrics are aligned to the five LTP themes.

As mentioned earlier in the report, NHS England has recently published its refreshed SOF for 2022/23, and is preparing a comprehensive review of the framework for 2023/24.

5

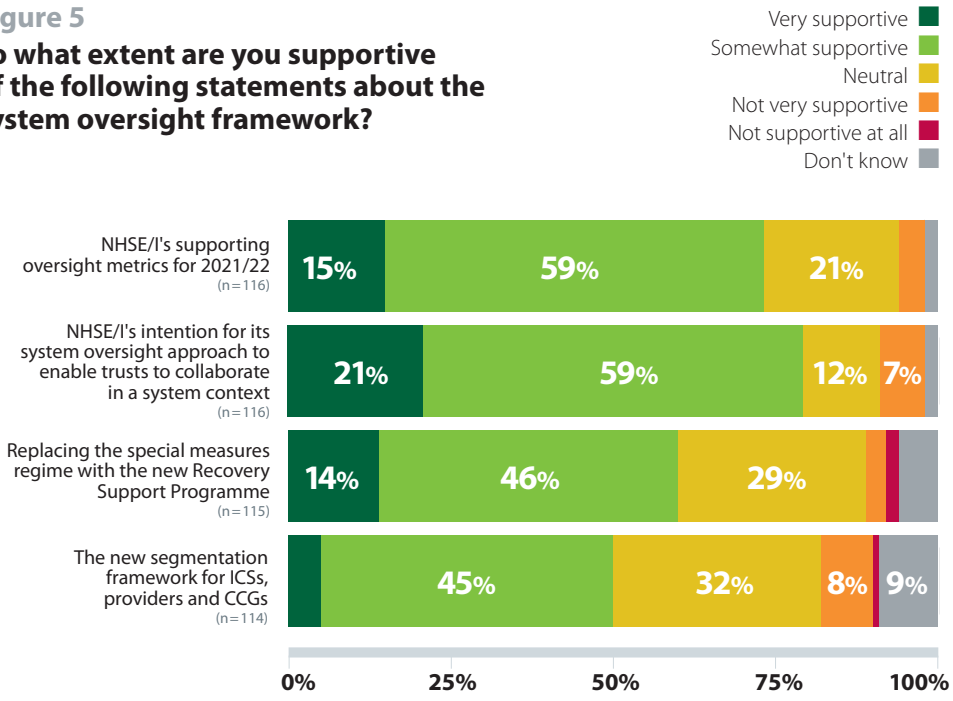
NHSE/I's system oversight framework for 2021/22

We asked members for their views on the 2021/22 oversight framework. An overwhelming majority of respondents (80%) supported NHSE/I's intention for an approach which enabled trusts to collaborate in a system context. Almost three quarters of respondents (74%) were also supportive of NHSE/I's oversight metrics for 2021/22.

60% percent of respondents supported the replacement of the previous special measures regime with the new recovery support programme, and a half of respondents supported the new segmentation framework for ICSs, providers and CCGs.

Figure 5

To what extent are you supportive of the following statements about the system oversight framework?



A key issue for respondents was how oversight will work in practice. Some pointed out that there were too many metrics, that these overlapped, or that there was not sufficient detail in the framework to understand how it would operate.

> *I think the key issue will be how this oversight is used and how the performance of relevant trusts (which remain independent statutory organisations) is adequately reflected while we are in a transition stage.*
>
> CHIEF EXECUTIVE, COMBINED MENTAL HEALTH, LEARNING DISABILITY AND COMMUNITY TRUST

5

NHSE/I oversight and support

Although supportive of NHSE/I's aims and the direction taken in the SOF, the survey showed a gap between the intention of the policy and how it is experienced locally. While an overwhelming majority (71%) perceived the SOF as a performance management tool, only a third (33%) saw it as a support tool.

Comments on the SOF and NHSE/I's approach revealed the following key themes:

- There needs to be more clarity on the respective responsibilities of NHSE/I and ICSs in the oversight of trusts, as well as on their interaction with CQC and other national bodies.

> *The NHSE/I local team have a different approach to the national team. The local team seem more supportive. Its too early to say how this will all pan out as we recover from COVID-19. Also what will the role of ICS be in this space. Are we now going to be held to account by CQC, NHSE locally, multiple ICB's and the national team. Seems overly bureaucratic and very expensive to me.*
>
> CHIEF EXECUTIVE, AMBULANCE TRUST

- The variability of the SOF's application across regions needs to be addressed – there needs to be greater transparency and consistency, suitably balanced with local flexibility.

> *NHSE/I SOF system is now totally opaque – based on feelings not data – not equitable based on outcomes. Very unclear what criteria are to move between SOF levels. And new SOF was intended to be broader but the reality is that NHSE only concerned with a very narrow range of performance measures.*
>
> CHIEF EXECUTIVE, ACUTE TRUST

- There should be a smaller number of national priorities and focus on outcomes.

> *There needs to be better alignment between NHSE's regulatory framework, the core purposes and objectives of ICSs etc. Too many overlapping objectives and poor strategic alignment, which in turn leads to poor regulation.*
>
> CHIEF EXECUTIVE, COMBINED ACUTE AND COMMUNITY TRUST

- Segmentation decisions should be clearly justified and there need to be clear criteria to move between segments.

> *The criteria to evidence the segmentation decisions requires additional clarity. For our own SOF, there are metrics being utilised that are not relevant to the organisation and yet are being used to assess our performance.*
>
> COMPANY SECRETARY, ACUTE SPECIALIST TRUST

COORDINATION BETWEEN CQC AND NHS ENGLAND AND NHS IMPROVEMENT

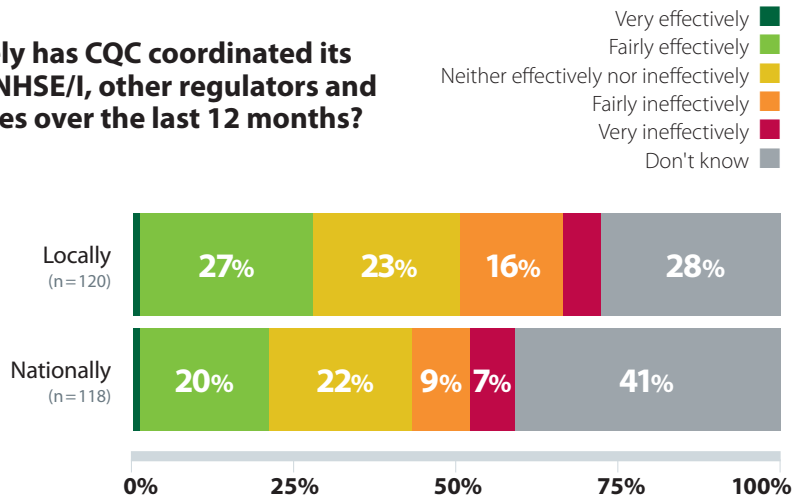
6

We asked members how effectively regulators had coordinated their activity with each other and with other national bodies over the last 12 months.

A slightly higher percentage of trusts thought CQC had coordinated its activity with NHSE/I and other national bodies effectively locally (28%), compared to nationally (21%).

Figure 6

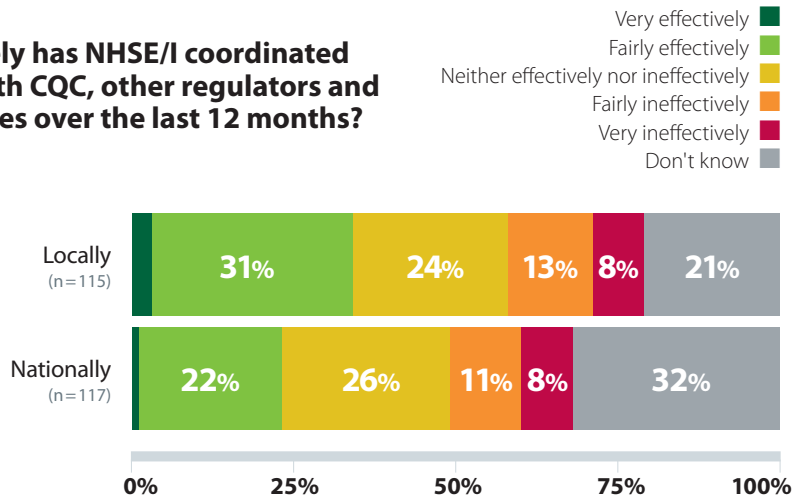
How effectively has CQC coordinated its activity with NHSE/I, other regulators and national bodies over the last 12 months?



One respondent observed CQC was perceived to have been absent in terms of policy co-ordination at a national level, but that local teams had been responsive. Another observation made was that while there was a continuous supportive relationship with their CQC regional lead, this was contrasted by a poor experience of their local inspection teams – this has been a consistent theme in the dialogue between trusts and CQC over the past year. As was the case with CQC, a higher percentage of trusts (34%) thought NHSE/I had coordinated its activity with CQC and other national bodies effectively at a local level, compared to nationally (23%).

Figure 7

How effectively has NHSE/I coordinated its activity with CQC, other regulators and national bodies over the last 12 months?



7 CONCLUSION

Health and care regulation is changing to reflect the formal adoption of system working and the new statutory framework provided by the Health and Care Act.

Our survey shows that providers welcome the regulators' shift towards a more system-focused approach, which is more flexible and accounts for local contexts. As the membership organisation for trusts, we would observe that CQC and NHS England are open to challenge and willing to co-produce and co-design their approaches with bodies such as ours, and those they oversee.

However, this survey also demonstrates that what trusts experience locally does not yet fit with the policy direction being set out at a national level.

Providers do not yet feel that the approaches of CQC and NHSE/I have encouraged them to collaborate and integrate care. Trust leaders contrast CQC's focus on organisations over systems with their own changing responsibilities. They would like to see more clarity from NHS England on the respective responsibilities and accountabilities in the new system architecture, in particular between NHS England and ICSs when it comes to the oversight of trusts. And, they identify a gap in the existing regulatory framework relating to provider collaboratives.

Members recognise that the system is changing and regulators' approaches are yet to fully develop, but there is a clear sense that national bodies need to do more to take into account the ongoing challenges trusts face, and become part of the solution. Just as collaboration is now a core expectation for trusts, it should also be the guiding principle for the future of regulation – one that is developed in the interests of patients and the public, and in the spirit of co-design and co-production with trusts and other providers.

We look forward to working with CQC and NHS England over the year ahead, on behalf of and alongside trust leaders, to further develop the approach to regulation following the passage of the Health and Care Act.

APPENDIX
Survey sample

Trust type	Count	%	% of sector
Acute specialist trust	8	6	53
Acute trust	52	39	67
Ambulance trust	6	5	60
Combined acute and community trust	23	17	55
Combined mental health, learning disability and community trust	18	14	62
Community trust	11	8	73
Mental health and learning disability trust	14	11	64
Grand Total	133	100	63

Region	Responses	% of responses
East of England	13	10
London	20	15
Midlands	23	17
North East and Yorkshire	24	18
North West	19	14
South East	20	15
South West	13	10
Grand Total	132	100

Role	Responses	% of responses
Chair	38	2
Chief executive	58	44
Company secretary	27	20
Other	9	7
Grand Total	132	100

Suggested citation

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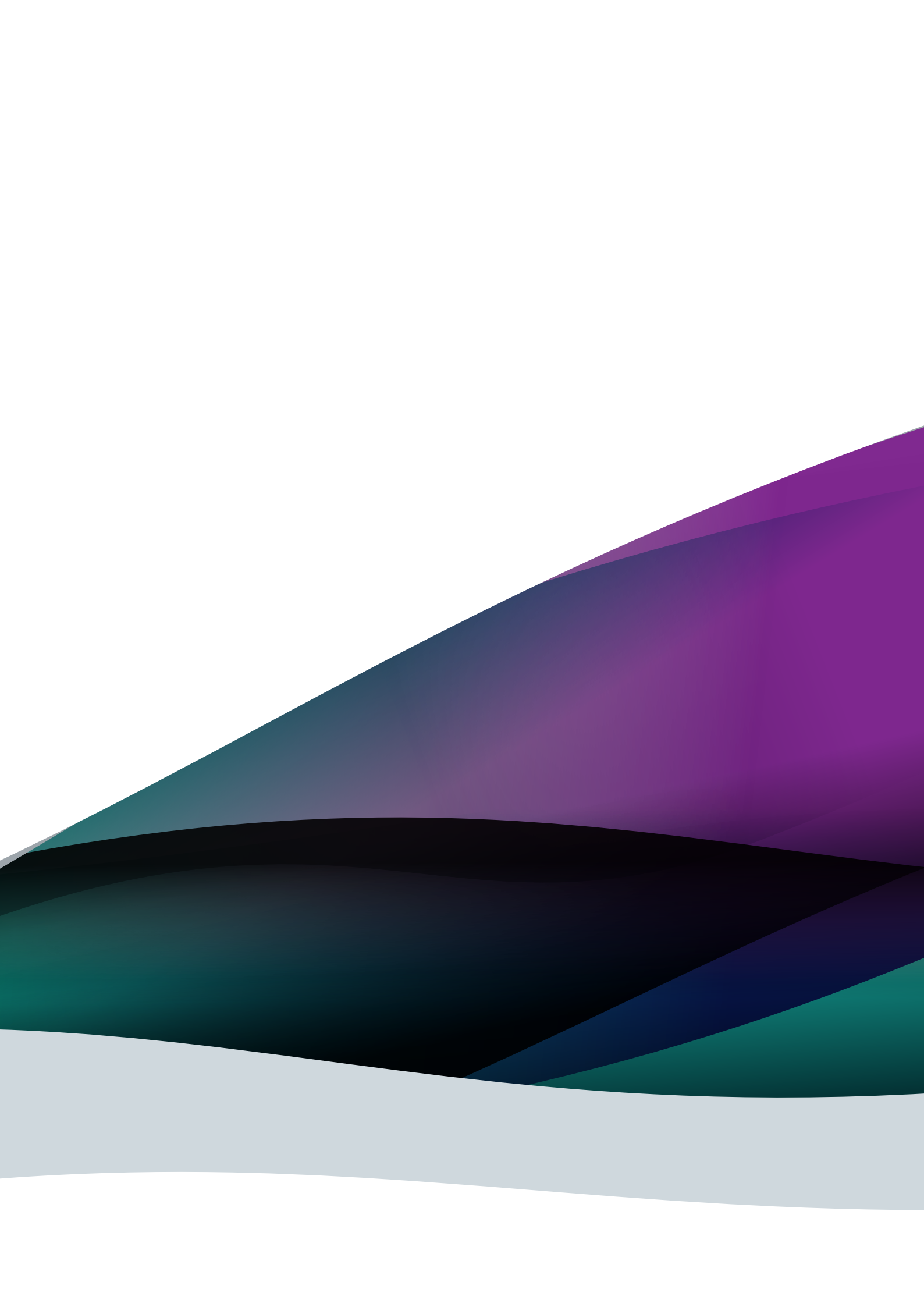
Interactive version

This report is also available in a digitally interactive format via:
www.nhsproviders.org/regulation-reform-and-services-under-pressure



NHS Providers is the membership organisation for the NHS hospital, mental health, community and ambulance 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 all trusts in England in voluntary membership, collectively accounting for £104bn of annual expenditure and employing 1.2 million staff.

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