15 October 2024

on the day BRIEFING

NHS Providers

Reviews into CQC's operational effectiveness and single assessment framework

Background

Today, 15 October, the Department of Health and Social Care (DHSC) published the full report of Dr Penny Dash's review into the Care Quality Commission (CQC)'s operational effectiveness. In addition, this morning CQC published the report of Professor Sir Mike Richards' independent review of CQC's single assessment framework and its implementation.

In response to Penny Dash's interim report and recommendations, in July this year, the Health and Social Care Secretary announced four immediate steps for the government and CQC to take to restore public confidence in the regulator. These included appointing Sir Mike Richards (former CQC chief inspector of hospitals) to review CQC's assessment framework.

The Health and Social Care Secretary has now asked Dr Dash to conduct two further reviews:

- The first will examine the roles and remits of six key organisations (CQC, the National Guardian's Office, Healthwatch England and the Local Healthwatch network, the Health Services Safety Investigation Body, the Patient Safety Commissioner, and NHS Resolution), and will make recommendations on how patient safety could be strengthened via a different approach to national oversight.
- The second review will focus on quality and its governance and will support the government as it works to ensure positive cultural change across health and social care.
- The findings from these reviews will also inform the government's 10-Year Health Plan.

This briefing includes an overview of Dr Dash's and Sir Mike's findings and recommendations, and NHS Providers' view.

NHSProviders

Key points

The two reviews reflect on different concerns over CQC's leadership, processes and overall performance. They make complementary recommendations on how the regulator can restore its credibility, effectiveness, and its ability to ensure the safety and quality of care of services in England. These recommendations include:

- A fundamental reset of the organisation, reverting to its previous model of three chief inspectors leading sector-based inspection teams, and considering the appointment of a fourth chief inspector to lead regulation of mental health and inspections under the Mental Health Act.
- Abandoning the concept of a 'single assessment framework' covering all sectors regulated by CQC, while retaining existing key questions and quality statements.
- Improving operational performance, including the quality and timeliness of reports.
- Rebuilding expertise within the organisation, and its relationships with providers.
- Fixing technical issues with the provider portal and addressing registration backlogs.
- Formally pausing ICS assessments.
- Working closely with providers to improve its approach to assessment and inspection.
- Revisiting the use of one-word ratings.

Dr Penny Dash's review into the operational effectiveness of the Care Quality Commission

The interim findings of Dr Dash's review, published in July, provided an early insight into the review's assessment of CQC's operational effectiveness. NHS Providers published a briefing on that interim report, which summarised its initial findings:

1. Poor operational performance
2. Significant challenges with the provider portal and regulatory platform
3. Considerable loss of credibility within the health and care sectors due to the loss of sector expertise and wider restructuring
4. Concerns around the single assessment framework
5. Lack of clarity about how ratings are calculated and the use of previous inspection outcomes

The interim report also made recommendations related to each finding.

Dr Dash's full report includes a number of important additions to the interim findings and recommendations. It incorporates feedback from senior figures at CQC, including the former chief executive, Ian Trenholm. Senior leaders at NHS England (NHSE), DHSC, the social care sector, and 52 trust leaders were also interviewed.

The full report builds on the previously outlined concerns about the single assessment framework, and identifies further problems with its application. Dr Dash considers the concept and approach of the framework to be "sensible", but notes its dependence on strong data and timely insights. Specific concerns regarding the framework's application include:

- The poorly laid out information on CQC's website and the limited information outlining what care looks like under each rating category.
- The lack of acknowledgement of the challenges providers face in balancing risk and ensuring high-quality care.
- The insufficient attention paid to care outcomes and lack of support for innovation in care delivery.

The full review keeps its original five findings but adds several new conclusions. These relate to:

- The delay and poor quality of inspection reports – The review found that assessment delays and long waits for reports and ratings cause stress for staff and hinder potential quality improvements.
- CQC's assessment of local authorities – The Health and Care Act 2022 empowered CQC to evaluate local authorities' adult social care delivery. Formal assessments began in December 2023, following a pilot with five local authorities. Feedback from the assessed authorities and sector representatives indicated broad support for the framework, though many suggested improvements to the assessment process.
- ICS assessments – Under the Health and Care Act, CQC was given the responsibility to assess Integrated Care Systems (ICSs). Although CQC developed a methodology for these assessments, wider implementation has been paused. Concerns around duplication with provider assessments and the overlap with NHS England's oversight framework are noted.
- Supporting providers to improve the quality of the health and care sector – Dr Dash's review emphasises that while CQC should not be an improvement body per se, it can better support the healthcare sector in its improvement efforts. She directly quotes the recommendation in our recent report on Good Quality Regulation, that *"CQC should make the most of its privileged observer position by sharing good practice, engaging in improvement-focused*

conversations with providers, and working with organisations that have a direct role in improvement."

- The sponsorship relationship between CQC and DHSC – DHSC's sponsorship of CQC should foster a productive relationship to ensure high-quality and efficient public services. However, the review found that DHSC could improve its support for CQC, particularly in holding it accountable for its operational performance.

This final report outlines seven recommendations, which build on the interim ones. These are:

1. Rapidly improve operational performance, fix the provider portal and regulatory platform, improve use of performance data within CQC, and improve the quality and timeliness of reports.
2. Rebuild expertise within the organisation and relationships with providers in order to resurrect credibility.
3. Review the single assessment framework and how it is implemented to ensure it is fit for purpose, with clear descriptors, and a far greater focus on effectiveness, outcomes, innovative models of care delivery and use of resources.
4. Clarify how ratings are calculated and make the results more transparent.
5. Continue to evolve and improve local authority assessments.
6. Formally pause ICS assessments.
7. Strengthen sponsorship arrangements to facilitate CQC's provision of accountable, efficient and effective services to the public.

Further areas for consideration

Dr Dash sets out four further areas that were raised with the review team but have not yet been considered in detail.

- One word ratings – The review notes the opportunity presented to reconsider the use of one-word ratings for the health and social care sector, to ensure greater clarity and transparency, referencing provider feedback on their use in our annual regulation and oversight survey.
- CQC finances – The CQC's current funding model of recovering cost from fees charged to providers creates challenges in ensuring efficiency of the regulator. Further consideration from DHSC would be beneficial to ensure a correct allocation of resource.
- Single 'data lake' across the health and care sectors – Dr Dash's review references the opportunity of a single repository of data on quality of care, which would improve performance management and improvement across services.

- **The wider regulatory landscape** – The growing number of regulatory bodies is creating additional regulatory burden, overlap of responsibilities between bodies, and confusion for providers. Dr Dash states there is a significant overlap between the role of NHSE, Integrated Care Boards and CQC.

Sir Mike Richards' review of CQC's single assessment framework and its implementation

CQC's board commissioned Sir Mike Richards' review following Dr Dash's interim report in July. The review has considered the changes brought about under CQC's latest strategy in 2021, and their impact.

To undertake the review, Sir Mike reviewed multiple documents and inspection reports and spoke to hundreds of CQC staff, senior NHS England representatives, and provider organisations' representative bodies. This engagement has included a roundtable with Sir Mike and trust chief executives, which NHS Providers hosted in September.

CQC's 2021 strategy and transformation programme

In his report, Sir Mike reflects on CQC's transformation programme that followed the 2021 strategy and its three key elements:

- A major organisational restructure.
- The introduction of a single assessment framework across all sectors regulated by CQC.
- The development of a new IT system and regulatory platform.

The review finds that, while these three elements are clearly interlinked, they have failed to deliver the intended benefits, and CQC has therefore been unable to fulfil its primary purpose, as defined in its latest strategy, "to ensure health and care services provide people with safe, effective, compassionate high-quality care and to encourage these services to improve". While recognising that the 2021 strategy was aspirational, he found that it did not provide any indication as to how its vision would be achieved.

Sir Mike has identified a number of adverse consequences that resulted, including:

- **Far fewer inspections carried out compared to previous years, and delayed publication of inspection reports**, with concerns around the inspection process and the quality of reports.

- Demoralised CQC staff and insufficient staffing levels in CQC's inspection teams, with limited induction and training for new staff.
- Lack of coordination between policy and strategy and operational delivery, as a result of these functions being separated in the restructure.
- Loss of clinical leadership and oversight of the inspection programmes, with chief inspectors no longer directly responsible for the inspections in their own sector.
- A sense that partnership with CQC has been lost among health and social care providers.

Single assessment framework

Of the three elements of CQC's transformation programme listed above, the report explores the single assessment framework and its implementation in greatest detail. The review finds that, despite wide-ranging support among providers for the theory of the framework, it has failed to deliver the intended simplicity, consistency and transparency. Providers believe it was tested and piloted in a very limited way, if at all, and its application, coupled with challenges around the new IT system, has been disappointing.

Sir Mike concludes that the idea of a single framework, which applies equally to all services, local authorities and ICSs, is superficially attractive, but not sufficiently justified, given differences in size, type and complexity of the services CQC regulates. While support for the five key questions and for the topics covered by the 34 quality statements was widespread, he has identified consistent concerns around: duplication; insufficient emphasis on outcomes; the difficulty in assessing and scoring evidence categories for each quality statement; and the challenges with assessing only a limited number of quality statements per key question per inspection.

Sir Mike Richards' recommendations

As part of his review, Sir Mike has made a number of recommendations, aimed at restoring CQC's credibility and its effectiveness in overseeing, assessing and rating the quality of health and care in England. These include:

- A fundamental reset of the organisation, similar to the one undertaken in 2012/13.
- Disbanding the new Operations directorate and reinstating the previous organisational structure, with at least three chief inspectors leading sector-based inspection directorates, and removing the separation between the roles of inspectors and assessors. He also recommends considering the appointment of a fourth chief inspector to lead regulation of mental health services and to oversee inspections under the Mental health Act.

- Reinstating ongoing relationships between inspection staff with relevant skills and experience and providers as soon as possible, ensuring regular dialogue, support and challenge.
- Abandoning the concept of a "single assessment framework", retaining key questions and quality statements, but scrapping the use of evidence categories and the scoring system.
- Incorporating existing datasets already collected by NHS England and other bodies into assessments of hospitals and primary care services as soon as possible.
- Urgently reviewing staffing levels and pay scales within CQC's inspection directorates.
- Working closely in partnership with leaders of health care and adult social care to design improved approaches to assessment and inspection.
- Urgently determining how the current backlogs in registration can be reduced or eliminated.
- Further considering the issue of "one-word ratings", and, in particular, the level at which ratings make sense to people using services.

NHS Providers' view

NHS Providers welcomes the findings, conclusions and recommendations of these important reviews. Both identify a range of concerns with the regulator's approach, and explain why there have been major challenges in the relationship between CQC and providers in recent years.

The CQC's main objective, set out in its founding legislation, is "to protect and promote the health, safety and welfare of people who use health and social care services". Trust leaders recognise the vital role regulation can play in protecting patients and service users by holding a mirror up to trusts, highlighting areas of concern, and supporting improvement.

We are encouraged that the findings and recommendations of Dr Dash and Sir Mike address precisely the areas of concern which we have repeatedly flagged in our conversations with the regulator and have highlighted in our recent reports on Good Quality Regulation and our annual regulation survey. The recommendations of Good Quality Regulation, in particular, which looked at how CQC can support trusts to deliver and improve, speak to many of the changes that CQC is now required to make, and we are pleased to see these quoted directly by Dr Dash.

Concerns around CQC's leadership, loss of credibility, and weakening relationships at a local level have been repeatedly raised by our members and have recently been captured in our regulation survey report and in our report on good quality regulation.

Like Dr Dash and Sir Mike, trust leaders have been supportive of the overall intentions of the framework, but have been critical of its implementation: they have often pointed out the lack of sufficient testing and co-production with providers, which would have surfaced issues with the scoring method and evidence categories much earlier. They have also been concerned about the level of duplication and repetition across the quality statements and have been disappointed that the benchmarking and intelligence-driven intentions of the provider portal have not been realised.

We agree with the recommendations of both Dr Dash and Sir Mike that CQC reconsiders its use of one-word ratings. Our Good Quality Regulation report recommends that CQC considers the addition of a narrative rating qualifier as part of its new provider assessments reports.

Another area of concern we have consistently flagged has been the recent loss of dedicated contacts and the lack of continuity in relationships with CQC inspection teams. Trust leaders have also described a weakening link with CQC's leadership and the varying levels of experience and expertise among CQC inspection teams. We are particularly encouraged to see these issues accounted for so clearly in both reviews, and that their impact on CQC's credibility has been recognised.

We are also supportive of Dr Dash's recommendation that CQC's assessments of ICSs should be paused for the time being. We agree that, until concerns with the regulator's approach are resolved, and until the best way to move forward with ICS assessments is agreed with DHSC, these should be put on hold.

Finally, we welcome the clear recognition from Sir Mike that CQC should work "closely in partnership with leaders of health care and adult social care to design improved approaches to assessment and inspection". We have supported engagement between CQC and trust leaders, and look forward to continuing to do so in the future, including in further work undertaken by Dr Dash and Sir Mike. We are keen to remain a trusted critical friend, able to reflect the views and needs of our members, while being well-placed to help the regulator rebuild the trust of providers, its credibility, and the effectiveness of its processes.

This is essential work in ensuring regulation is able to support trusts to provide the best possible care for patients.