United Kingdom Homecare Association
The professional association for homecare providers

Care Quality Commission
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By e-mail to: feesconsultation@cqc.org.uk

17 January 2019

Dear Sirs

CQC Consultation: Regulatory fees – have your say

Thank you for the opportunity to respond to the above consultation, which I have the pleasure to do on behalf of United Kingdom Homecare Association (UKHCA).

UKHCA is the national professional association for organisations that provide social care, including nursing care, to people in their own homes. Our mission is to promote high quality, sustainable care services so that people can continue to live at home and in their local community. The vast majority of our members in England provide services that are regulated by the Care Quality Commission.

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UKHCA represents 1,887 providers in England, covering a range from the very smallest to the largest. We consider that our views are likely to be the most representative of the sector.

During last year's consultation and with CQC's encouragement, we carried out surveys of our members and shared with CQC feedback from our members of the likely scale of increases that they would experience.

Since the introduction of the new fees' structure in April 2018 and as providers have received their invoices, we have advised CQC of increases up to 1000% in the current financial year.

Despite providing these data and other supporting evidence, it was disappointing to note that during last year's consultation exercise CQC gave UKHCA's the same weight as some of our very small competitors with hardly any homecare providing members.

In our response to last year's consultation exercise, we proposed an alternative fees' model based on a flat-rate registration fee with additional charges to reflect the actual costs of regulation. The Commission rejected this proposal and implemented a funding model based on the number of service users in April 2018.

The Commission has stated within this year's consultation documents that "… we are monitoring the impact of changes to the fees structure and include an early assessment of them in the draft regulatory assessment…"

On looking at the data provided by the Commisson, the measure used to assess this impact is the time taken for providers to pay fees to CQC and is based on a sample of just 402 invoices. Within the sample it is claimed that 132 service providers saw an increase in fees and 267 a decrease.

Given that there are 5,703 registered domiciliary care agencies according to CQC's PIR data[1], a sample of 402 is scarcely representative and no assessment has been made by CQC on the impact on service provision.

In addition, the speed of invoice payment is not a proxy for the impact of fees on providers' viability. Non-payment of an invoice for registration fees would ultimately lead to the cancellation of a registration. It is, therefore, highly likely that a provider in financial difficulty would prioritise the payment of CQC's fees over other cost items. Therefore, we believe that this is, at best, a flawed methodology.

We have consistently raised concerns with CQC about the actual impact on service provision resulting from CQC fees. Our members have reported increases of up to 1,000% over the 2017/18 fee levels and far in excess of the increases that can be attributed to the third of a four-year move to "full cost recovery".

A number of our members have reported that they feel compelled to refuse hand-back care packages to local authority commissioners where the anticipated fees will not cover the additional costs that the service user places on their fees.

We also heard allegations that some providers have looked for creative ways to manipulate their CQC returns, so that fewer service users were included in the count. For the avoidance of doubt, this Association does not support 'gaming' of the system and we would actively discourage our members from considering this tactic, if they asked our advice. However, these allegations, if true, highlight a potential vulnerability in the system that CQC has chosen, and is – in our view – an indication that the fees place a sufficient financial burden on providers that provides an incentive to under-report their figures.

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[1] Source CQC ratings data extracted 21/12/2018 and CQC PIR data from 29/11/2018 presented to ASC Trade Association meeting on 9 January 2019.

At the CQC Trade Association meeting in November 2018, we raised our concern about the lack of a full impact assessment by CQC and the failure by the Commission to assess the actual impacts on service provision reported to UKHCA. Despite assurances that CQC would contact us to discuss our concerns, we are disappointed that no response has been made. We continue to question whether CQC has fully discharged its aim, stated within the impact assessment, to ensure that the fees recovered are appropriately aligned to the cost of regulation. Rather, CQC is aligning its fees to the number of service users registered with an individual provider.

In the absence of data from CQC we have carried out our own impact assessment, summarised in the attached spreadsheet.

From our analysis:

- Providers with fewer than 50 service users (3,769 providers) are likely to see either a decrease in fees or a rise of around £300;
- Providers with between 50 and 100 service users (1,067 providers) will see their fees at least double;
- Of the 657 providers with between 101 and 250 service users fees quadruple over 2017/18 levels;
- The 210 providers with more than 250 service users could see a ten-fold increase.

The Commission has not explained in its impact assessment how the realignment of fee increases resulting from the 2018-19 fees structure meets the Commission's aim of "… ensuring that the fees recovered are appropriately aligned to the cost of regulation…"

Rather, CQC appears to have decided to take a greater proportion of its income from those providers with more than 50 service users and significantly more from those providers with over 150 users. On the basis of CQC's stated aim, this suggests to us that CQC has taken the view that larger providers impose a greater regulatory burden on CQC. If this is so, there is no supporting evidence in the impact assessment.

While our response to last year's consultation exercise recognised that any move from the previous banded structure was likely to create winners and losers within the homecare sector. However, we firmly believe that the fees which CQC charges should reflect the costs of regulation and inspection in relation to each provider, rather than the scale of providers' activities in delivering services within the sector.

We see no convincing evidence in this year's consultation documentation that the fee structure introduced in 2018-19 has resulted in better value for money in CQC's operations, or greater transparency and accountability with respect to its regulatory activities.

Disappointingly, the current consultation documentation merely informs the sector of changes that CQC is intending to implement. The wording of the questions leaves no option of challenging or amending the outcomes and CQC has stated that it will not make any structural changes to the fees' system.

Our members have repeatedly questioned CQC's justification for potentially large fees' increases against a background of increased shortfalls between the actual costs of delivering home care and the fees paid by many local authorities.

Indeed UKHCA's report "The Homecare Deficit 2018", https://www.ukhca.co.uk/downloads.aspx?ID=589#bk1, shows a depressing picture of low rates of fees paid by local authority commissioners across the country. CQC's fees will impact directly on providers' ability to deliver services and meet their statutory responsibilities

The above notwithstanding, we have provided our response to the consultation questions, below.

QUESTION 1

The proposals in this consultation are part of our ongoing review to make sure that the full costs of regulation are broadly aligned between sectors. We propose to balance fees between sectors

carefully so fees do not fluctuate more than is necessary. (Questions 2 to 4 relate specifically to the community social care, dental and residential social care sectors respectively)

1a. To what extent do you agree or disagree with our approach to assessing costs and fees for all sectors? • strongly agree • agree • neither agree or disagree • disagree • strongly disagree • no opinion

Strongly disagree

1b. Please explain your answer

As outlined above, CQC has yet to provide convincing evidence that the fees' structure currently in place meets CQC's stated aim of aligning income to the actual costs of regulation as opposed to CQC's overall operating costs.

No evidence has been provided that CQC has assessed the true impact of the fees' structure on service provision nor provided evidence that the fees represent value for money.

The evidence provided in CQC's impact assessment only related to 402 invoices out of over 5,000 registered providers and is therefore neither representative nor a reflection of the impact of fees on service provision.

QUESTION 2

This is the fourth and final year of our four-year trajectory to full chargeable cost recovery. This was addressed in previous consultations. We propose to increase fees for community social care providers by £1.5 million overall for 2019/20. The proposed increase is lower than the amount we stated previously.

2a. To what extent do you agree or disagree with our reasons for increasing fees for community social care providers by £1.5 million overall for 2019/20? • strongly agree • agree • neither agree or disagree • disagree • strongly disagree • no opinion

Strongly disagree.

2b. Please explain your answer

Again, in the absence of evidence of the actual costs of regulation borne by CQC, we do not see the justification for CQC's intention to raise an additional £1.5 million in 2019/20.

CQC chose to disregard UKHCA's proposal last year that fees should be based on the actual costs of regulation and has yet to provide any justification that the current structure represents value for money.

In the consultation package CQC states that "… Comments received during last year's consultation indicated that some providers were concerned about the effect that increased fees would have on their financial viability. We tested this by analysing fee payments for CSC providers and NHS trusts to see if the fee scheme changes had an impact on how long providers took to pay…"

In our view, CQC has sought to justify the impact on providers by seeing how long it is taking providers to pay CQC their fees.

The approach being taken by CQC suggests that it considers that those service providers with a higher number of service users will be more able to absorb very steep increases in fees in an attempt to rebalance CQC's income profile but has yet to provide any evidence of this.

In our analysis of the potential impact, we show that service providers with more than 150 service users would see a significant impact on their operating costs. This is not covered within CQC's impact assessment, which cites 46 service users is the most appropriate baseline metric.

As was the case last year, we regret to state that we believe that CQC has acted with a lack of transparency and has failed to evidence that income generated from the homecare sector represents value for money and has failed to assess fully the actual impact of fees on service provision.

Increasingly, providers are questioning whether to continue to accept certain care packages, particularly those that would increase the number of service users to over 150 as those providers would see their fees rise by over £900 on top of the £5,000 rise they experienced in 2018/19. In addition, as we predicted in our response to last year's consultation, there is apparent evidence that some providers are seeking to 'game' the system to reduce the impact of CQC fees. We believe that this is a result of the methodology chosen, and the impact which a high number of service users has on the fee calculation.

Please do not hesitate to contact me if you require any further information or wish to discuss further.

Yours faithfully,

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Policy Officer

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