United Kingdom Homecare Association
The professional association for homecare providers

Strategy 2021 Consultation
Care Quality Commission
Citygate
Gallowgate
NEWCASTLE UPON TYNE
NE1 4WH

Sent by e-mail to: strategydevelopment@cqc.org.uk

Date: 25 February 2021

Dear Sirs,

CQC Strategy 2021 Consultation

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

UKHCA is the national professional association for organisations which 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 which are regulated by the Care Quality Commission.

Yours faithfully,

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People and communities

Listening and acting, People are empowered, Prioritising people and communities

Question 1a. To what extent do you support the ambitions set out in this theme?

We welcome CQC's aspiration to place a greater emphasis on the experience of people who use services and to increase the use of intelligence gathering as opposed to the previous focus on inspections of providers' business premises and documentation. We believe that the present system on inspection is too heavily focused on examination of processes, compared to outcomes achieved, particularly when an inspection is undertaken without the use of experts by experience.

Broader intelligence gathering, combined with a systems-based approach will, hopefully, lead to a more rounded and balanced view of the actual performance of services within the broader context of their clients' experiences and the environment in which the providers operate.

Question 1b. Please give more details to explain why you chose this answer.

Understandably, the Strategy document does not contain much detail in terms of delivery of the stated aspirations but we would urge the Commission to ensure that its policies and procedures are consistent, transparent and balanced. In addition, information gathering will need to be inclusive, particularly for those stakeholders who do not have access to or experience with digital platforms.

Contemporaneous feedback to providers will also be important, particularly where intelligence is being gathered outwith the provider's quality records. Such intelligence also needs to reflect the totality of the service rather than the selected views of a limited number of individuals or data-points.

In addition, whilst we support the aspiration to look at the system within which providers operate, we recognise that CQC, currently, has limited powers to hold local care systems to account, particularly local authority and NHS commissioners who are responsible for commissioning 70-80% of the homecare sector's output. A number of undesirable practices, such as contracting services by the minute are imposed on providers by their commissioning authorities and can have a negative impact on the ability of providers to deliver the high quality services we should all support.

CQC will need to ensure that conscious or unconscious bias is minimised in its analysis. Where feedback is sourced from a range of stakeholders, providers shouls have the opportunity to see and respond to feedback (suitably anonymised, where necessary) before it ends up in the draft report. In the past we have received reports of inspectors giving disproportionate weight to a small number of negative views, claiming balance, but the provider has not been sighted on these nor able to seek clarification or any opportunity challenge the opinions of the people giving feedback or provide mitigating evidence prior to the issue of the draft report.

Greater reliance on opinions of motivated individuals could lead to distortion if not handled carefully and transparently.

Whilst the impact of systems is to be welcomed, CQC needs to reflect those aspects that are within the control or influence of the providers and those that are not and balance the relative impact. The latest draft White Paper outlines proposals to grant greater powers to CQC to hold local authority commissioners to account and we have and will continue to support this aspiration.

Smarter Regulation

Targeted and dynamic, Making it easier to work with us, Future proof and focused on what matters most, Relevant for all

Question 2a. To what extent do you support the ambitions set out in this theme?

We support these ambitions but, as outlined in our previous answer, more detail on how these ambitions will be achieved would be appreciated.

Question 2b. Please give more details to explain why you chose this answer.

We have supported the recent changes that CQC has made in the way it has carried out inspections and interacted with providers throughout the pandemic including the recent pilot of virtual inspections for homecare providers in which UKHCA members actively and enthusiastically participated.

We have supported the CQC's increased engagement with providers under the Emergency Support Framework (ESR) and the evolution towards the Transition Monitoring Approach.

Both the CQC and providers have benefitted from increased engagement and support, but UKHCA has previously expressed disappointment that the current framework does not allow for ratings to be changed. The proposed Flexible Approach to Regulation gives CQC the option to change ratings more rapidly and flexibly and we would urge CQC to implement this option as quickly as possible.

We would also urge CQC to carry out a thorough 'lessons learned' exercise on both the ESR and Transitional Approach to ensure that best practice is reflected in future frameworks.

UKHCA and other professional organisations contributed to CQC's exercise 'What to expect from inspection'. This was a successful collaboration and the subsequent guidance document reflected that both CQC and providers can benefit from closer collaboration and shared expectations. We commend the Commission for this approach.

Flexibility also applies to the consistent, transparent and proportionate application of registration criteria to providers of 'personal care'.

Increasingly, over the last few years, there has been a growth in the commissioning of services from 'micro-providers'. These services are currently unregulated by CQC and people being supported by these services may be unwittingly taking on the responsibilities of employers.

CQC had agreed in 2019 that appropriate and proportionate regulation should be applied to those micro-providers which are in the scope of the current Regulations, particularly to the 'umbrella organisations', who are in fact delivering the regulated activity of 'Personal Care'.

UKHCA contributed to a Regulatory Sandbox exercise in 2019 and the subsequent development of a registration and inspection framework which was due to be piloted in 2020.

CQC has not, to date, brought this approach forward and UKHCA would urge the Commission to address this omission urgently as part of its strategic plans as failure to do so would appear to be in breach of the Regulations CQC is required to enforce.

Future-proofing and making CQC's approach to regulation more relevant to all are positive ambitions but CQC must ensure that its plans offer true value for money and be reflected in the way the Commission charges for its services, not least since the move to full cost recovery for the costs of regulation.

UKHCA has consistently argued that CQC's current charging formula, based on the number of service users, is not flexible and does not reflect the actual costs of regulation. With a move away from set inspection timetables, increased use of virtual methods and increased use of intelligence, the charging framework must reflect the differences in costs between the previous regulatory approach and that being proposed in this strategy document.

If CQC is intending to broaden the scope of its activities to cover systems, the balance of funding must genuinely reflect the scope of CQC's activities in relation to homecare and homecare providers' fees should not be cross-funding activities in relation to other system partners.

Safety through learning

The importance of culture, Building expertise, Involving everybody, Regulating safety, Consistent oversight and support

Question 3a. To what extent do you support the ambitions set out in this theme?

We support the ambitions set out in this theme but look forward to seeing more detail on how the aspirations will be met.

Question 3b. Please give more details to explain why you chose this answer.

As outlined in our answer to Question 1, homecare providers operate as part of a wider system of health and care providers and whilst they can influence the culture of their own organisations, they are impacted by the culture and decisions of other parties, not least local authority and CCG commissioners.

Concerns around the sustainability of the homecare market have increased. Commissioners' insistence on payment by minute, or on the basis of a set of

tasks to be completed during a visit, as well as failures to carry out meaningful cost of care exercises, have led to increased pressures on providers. These have been increased further by the ongoing challenges of the COVID-19 pandemic and some commissioners have reverted to pre-COVID systems which, as highlighted previously, can disadvantage providers.

UKHCA supports aspirations to develop and celebrate the work carried out by careworkers and providers but, to develop further, investment must be made to support this. Consistently low rates of council and CCG fees have always made investment in staff development challenging for many providers.

In 2020, UKHCA carried out a survey of the rates being paid by local authorities up to 7 April 2020. The data showed that only 1 in 7 councils were paying at least the UKHCA's minimum Price for Homecare of £20.69 per hour for 2020/21. Of 131 out of 152 local authorities the median fee rate for homecare was only £16.96 per hour, compared with a median rate of £16.43 for 2019/20.

These rates did not reflect the 6.25% increase in National Living Wage on 1 April 2020 nor the increased costs to providers as a result of COVID-19, most notably the additional costs of PPE and covering staff absences through shielding and self-isolation. UKHCA estimated that these added £3.95 in additional costs per hour of homecare delivered.

Feedback from UKHCA members suggests that councils will not substantially increase rates for 2021/22. A range of 0 to 5% is being reported at present.

Without a sustainable funding framework homecare providers will face challenges in implementing sustainable cultural change.

Accelerating improvement

Collaborating for improvement, Making improvement happen, Encouraging innovation, An approach based on evidence

Question 4a. To what extent do you support the ambitions set out in this theme?

Continuous improvement is a core attribute of the current regulatory regime and UKHCA supports this.

Question 4b. Please give more details to explain why you chose this answer.

Notwithstanding our support for continuous improvement we would urge CQC to consider this more closely within the context of the systems within which providers operate and the level of control and influence they have.

As outlined above, commissioning decisions of local authority and NHS commissioners can have a perverse impact on the ability of public sector funded providers to innovate and continuously improve.

We welcome CQC's ambition to collaborate more with providers and other system partners and to make better use of data.

However, CQC must also share data and best practice learnings, gleaned from the regulatory process, more openly and consistently. By doing so, providers will have access to data against which to benchmark their current performance but also to innovate and improve services.

We would, for example, like to see a regular digest of the learnings from inspections (including what worked extremely well and could be emulated by others, and where there are patterns on undesirable practice). At present we do not think that the Commission maximises the use of the inspection data it accumulates.

CQC currently has access to a wealth of data and we would urge the Commission to accelerate its previous digital strategy as a key component of future activity in this area.

Our core ambitions

Question 5a. To what extent do you support our ambition plans to assess health and care systems?

As outlined in previous answers UKHCA supports CQC's ambition to assess health and care systems.

Question 5b. Please give more details to explain why you chose this answer.

Whilst supporting the ambition and as outlined in our responses to the previous questions, above, this ambition must be delivered in a proportionate and consistent way and due weight given to the overall operating context when assessing providers' performance.

The impact of commissioning decisions, perverse funding levels and the level of control providers have within systems need to be more overtly incorporated into the assessment process

Question 6a. To what extent do you think the ambitions in the strategy will help to tackle inequalities?

There is insufficient detail in either the strategy document or the draft equality impact assessment to fully assess the impact of the strategic ambitions in respect of tackling inequalities.

Question 6b. Please give more details to explain why you chose this answer.

Access to care and the funding of that care are current inequalities within the health and care systems.

Access to more data and a more flexible approach to regulation may make CQC more aware of where these and other inequalities exist as well as understanding the potential drivers for them. However, in the absence of regulatory powers CQC cannot alter, for example commissioning decisions or funding levels. Providers, for their part are also unequal partners.

A more collaborative approach with providers and other stakeholders may go some way to address what is, an unequal balance between regulators and providers. However, this will depend on how the ambitions articulated in the strategy document are implemented.

The ability to more flexibly and proportionately alter ratings would be welcomed by providers.

The current limitations on the equality information currently held by CQC could be addressed by making providers aware of why the data were being collected, how they may have influenced CQC's actions and practical learnings from those data to aid providers in improving performance.

Measuring the impact on equality

7. We'd like to hear what you think about the opportunities and risks to improving equality and human rights in our draft equality impact statement. For example, you can tell us your thoughts on:

Whether the ambitions in the strategy will have an impact on some groups of people more than others, such as people with a protected equality characteristic.

Whether any impact would be positive or negative.

How could we reduce or remove any negative impacts.

Access to better and more consistent data about equalities has the potential to improve performance and address negative issues.

However, CQC must use data in a more proportionate, consistent and transparent way.

Previous inspection approaches could lead to looking for fault rather than taking a more balanced view of performance. This could lead to reticence in sharing data with the Commission for fear of regulatory consequences leading to problems with closed communities and sexual and other abuse across health and care sectors not being reported.

Greater collaboration, transparency and consistency would be more likely to reduce or remove negative impacts across the health and care systems.