NHS Resolution response to CQC's consultation on changes for more flexible and responsive regulation

Submitted: Monday 22 March 2021

Assessing quality

Question 1a. To what extent do you support this approach?

NHS Resolution fully supports this approach.

Question 1b. What impact do you think this proposal will have?

- NHS Resolution is supportive of this proposal that aims "to use wider sources of evidence, tools, and techniques to assess quality".

- The CQC's engagement with other regulators to determine respective roles, interdependencies and how information can best be shared to ensure collective regulatory effectiveness will be key to achieving this. NHS Resolution is not a regulator but will be pleased to contribute towards this work as our services (in particular practitioner performance advice, handling compensation claims and our contribution to maternity safety surveillance) interact with the regulatory system.

- All regulators, including the CQC, have expressed an ambition to make more use of the data held within the wider system to assist in improving regulatory effectiveness. It would be helpful to initiate a collective piece of work to look at the barriers to data sharing (both actual and perceived) to reach a shared position on what changes may be required to make further progress. Initiatives such as the Data Alliance Partnership could support this. We would suggest that this discussion includes non-regulators who hold valuable sources of data such as NHS Resolution as well as the Department of Health and Social Care from a policy and co-ordination perspective.

- Making best use of our intelligence is a key strategic objective for NHS Resolution. We have recently appointed a new Chief Information Officer to drive forward our own work in this area to include the deployment of innovative technologies to streamline analytical processes. We would be happy to connect our CIO up with your own team, if that would assist further discussions on the data points.

- The use of shared intelligence may enable the CQC to take a more targeted approach to inspection where issues of concern have been flagged. This could be responsive to both soft intelligence and proactive data analysis which flags an emerging issue. There may also be opportunities for driving greater consistency in the approach taken during an inspection – such as the use of metrics to identify unexpected variation.

- NHS Resolution can contribute to the CQC key line of enquiry: W3: Is there a culture of high-quality, sustainable care? - in particular on W3.4: Is action taken to address behaviour and performance that is inconsistent with the vision and values, regardless

of seniority? NHS Resolution would be happy to support the development of the key evidence section for W3.4.

- We would also be happy to explore where else NHS Resolution could contribute to the development of other the key line of enquiry and evidence in areas such as:
  - o W5 - Are there clear and effective processes for managing risks, issues and performance?
  - o W8 - Are there robust systems and processes for learning, continuous improvement and innovation?

- It is important to highlight that the quality of CQC's ratings using this new approach could only as good as the quality of the sources of evidence, tools and information that it is reliant on. It will be important to ensure that the wider sources of evidence that CQC gathers is reliable, up to date, and do not hold any unintentional biases. The CQC will also need to ensure that the sources of information do not miss, albeit unintentionally, the intelligence that the CQC would previously gain from longer on-site visits and face-to-face consultations with employees.

Reviewing and updating ratings

Question 2a. To what extent do you support this approach?

NHS Resolution fully supports this approach.

Question 2b. What impact do you think this proposal will have?

- NHS Resolution is committed to working with our system partners, including CQC, to share data and promote speedier system learning to benefit patient care.

- We are therefore supportive of these proposed changes and CQC's ambition to have "a less rigid approach that allows us to update ratings more often when we recognise changes in quality and to make our on-site inspections more targeted and flexible" in order to reflect changes in quality more quickly.

- NHS Resolution is keen to support this new approach which is strategically aligned to our own on using data and intelligence to support learning and harm reduction in healthcare. In order to develop this area, we recommended a cross system consideration of the barriers to data sharing as well as the opportunities to streamline data collections, as noted in question one. NHS Resolution notes that DHSC work to reduce the data burden on NHS providers could support this ambition.

- Given that maximising the use of data for strategic gain is a shared, strategic goal, NHS Resolution would be pleased to offer support from our Chief Information Officer to explore this further.

- We also consider that updating ratings more quickly will benefit CQC's ambition to improve safety through learning, as outlined in its formal strategy consultation, and with which, NHS Resolution would be pleased to support and collaborate on.

Changing how CQC rate GP practices and NHS trusts

General Practice

Question 3a. To what extent do you support this approach?

NHS Resolution mostly supports this approach.

Question 3b. What impact do you think this proposal will have?

- NHS Resolution is supportive of this proposed approach that aims to simplify the process, and we consider that this proposal will help to drive improvement before, during and after inspections, as recommended by the King's Fund in 2018.

- We also broadly agree with CQC's analysis that "there is little variation in ratings for the different population groups, as they are usually influenced by evidence and judgements about the quality of care that affects all the people using a GP practice". However, by shifting the focus away from population characteristics there is a risk that a more generalised approach will fail to capture where things have or may be going wrong for one particular group of the population.

- Although we are overall supportive of the proposal, we recommend that the CQC considers how to mitigate this possible risk so that the rating approach is as robust as possible. One way to do this, as indicated in question one, will be to ensure that the wider sources of evidence that CQC will use to rate a service are of high-quality, reliable, up to date, and do not hold any unintentional biases.

- We are also supportive of "Level 1: A rating for each key question for the location/service. This will be based on relevant evidence of how GP practices personalise people's care and provide care for different groups of people." NHS Resolution considers that this approach is reliant on robust engagement with patients from each General Practice to ensure that the diverse population mix that is registered with the practice is engaged and provides feedback to benefit learning.

NHS Trusts

Question 4a. To what extent do you support this approach?

NHS Resolution fully supports this approach.

Question 4b. What impact do you think this proposal will have?

- NHS Resolution supports this proposal and its aim to "enable CQC to focus on the culture and leadership of an organisation, as well as the services where people receive care."

- Focusing on this area will hopefully aid our shared ambition to reduce variation in how organisations embed learning from incidents/concerns and how we can overcome real or perceived barriers to ensuring such learning occurs including how the claims process interacts with the duty of candour.

- In our [research into why people bring legal claims against the NHS](#), 87% of respondents cited that one reason for making a claim was to prevent similar incidents happening to others. Staff and patients raising incidents and concerns must do so on the basis that awareness is the first step in preventing reoccurrence.

- However, in our 'Being Fair publication', we identified three challenges to organisations learning from harmful incidents which are directly related to culture:

  o Fear: There is a substantial fear of the consequences; fear of being blamed, fear for future employment and fear of what colleagues, families and friends will think which prevents people from sharing and learning.

  o Equity and fairness: There is significant variation between NHS trusts as to the likelihood of staff being disciplined or suspended. Research has shown that different individuals can also experience inequity, discrimination and suffer disproportionate disciplinary action, especially among black, Asian and minority ethnic (BAME) staff groups.

  o Stress and bullying: When things do not go as planned people experience stress, burnout, and subsequent loss of productivity. This is compounded by a culture of incivility, bullying and harassment.

- Therefore, NHS Resolution is supportive of the CQC's suggested change to allow for more focus on culture and leadership.