

# Provider handbook

## Consultation

Residential adult social care services

April 2014

The Care Quality Commission is the independent regulator of health and adult social care in England

### **Our purpose**

We make sure health and social care services provide people with safe, effective, compassionate, high-quality care and we encourage care services to improve.

### **Our role**

We monitor, inspect and regulate services to make sure they meet fundamental standards of quality and safety and we publish what we find, including performance ratings to help people choose care.

### **Our principles**

- We put people who use services at the centre of our work.
- We are independent, rigorous, fair and consistent.
- We have an open and accessible culture.
- We work in partnership across the health and social care system.
- We are committed to being a high performing organisation and apply the same standards of continuous improvement to ourselves that we expect of others.
- We promote equality, diversity and human rights.

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# Introduction

This document describes our new approach to regulating, inspecting and rating residential adult social care services.

In our new approach, it is our intention that our inspectors will use their professional judgement, supported by objective measures and evidence, to assess whether services are safe, effective, caring, responsive to people's needs and well-led.

We will rate services to help people compare them and to highlight where care is outstanding, good, requires improvement or is inadequate.

In this document we pose a number of questions about our approach to which we invite your views and comments.

In September, we will publish an updated version of this document amended in the light of this consultation. It will set out how we will inspect residential adult social care services from October 2014.

# 1. Key principles

Although we will inspect and regulate different services in different ways, there are some principles that guide our operating model across all our work.

## Our operating model

The following diagram shows an overview of our overall operating model. It covers all the steps in the process, including:

- Registering those that apply to CQC to provide services.
- Intelligent use of data, evidence and information to monitor services. When we refer to evidence, we mean all the supporting information we use to inform our judgements, whether through our Intelligent Monitoring, information provided by providers, or information gathered during an inspection.
- Using feedback from people who use services and the public to inform our judgements about services.
- Inspections carried out by experts.
- Information for the public on our judgements about care quality, including a rating to help people choose services.
- The action we take to require improvements and, where necessary, the action we take to make sure those responsible for poor care are held accountable for it.

**Figure 1: CQC's overall operating model**



## The five key questions we ask

We get to the heart of quality and safety by assessing people's experiences of care and support, based on the things that matter to people. To do this we ask whether services are:

- Safe?
- Effective?
- Caring?
- Responsive to people's needs?
- Well-led?

For all health and social care services, we have defined these five key questions as follows:

<b>Safe</b>	By safe, we mean that people are protected from abuse and avoidable harm.
<b>Effective</b>	By effective, we mean that people's care, treatment and support achieves good outcomes, promotes a good quality of life and is evidence-based where possible.
<b>Caring</b>	By caring, we mean that staff involve and treat people with compassion, kindness, dignity and respect.
<b>Responsive</b>	By responsive, we mean that services are organised so that they meet people's needs.
<b>Well-led</b>	By well-led we mean that the leadership, management and governance of the organisation assures the delivery of high-quality person-centred care, supports learning and innovation, and promotes an open and fair culture.

## Key lines of enquiry

To direct the focus of their inspections, it is our intention that our inspection teams will use a standard set of key lines of enquiry (KLOEs) that directly relate to the five key questions listed above.

Within the standard set of KLOEs we have identified a number of mandatory KLOES which inspectors must use on every inspection. Having a set of mandatory KLOEs ensures consistency in what we look at under each of the five key questions and ensures we focus on those areas that matter most. This is vital for reaching a credible rating that will allow comparison between services.

In addition to the mandatory KLOEs, inspectors will select a minimum of four additional key lines of enquiry overall. They will make this selection by using

their knowledge of the service, the information available to them before the inspection and their professional judgement. If necessary they will select more than four additional KLOEs to help them make a robust judgement. In making their selection inspectors will choose the KLOEs that support them to identify good practice as well as review identified risk areas and poor practice.

The KLOEs are set out in appendix A. The mandatory KLOEs are highlighted in yellow.

Each KLOE is accompanied by guidance on a number of particular quality issues on which inspection teams will focus as part of the assessment. We call these prompts. Inspection teams will take into account the information gathered in the preparation phase and the evidence they gather during the inspection. When we refer to evidence, we mean all the supporting information we use to inform our judgements, whether through our Intelligent Monitoring, information received from providers, or information gathered during an inspection. The prompts are listed alongside each KLOE in appendix A.

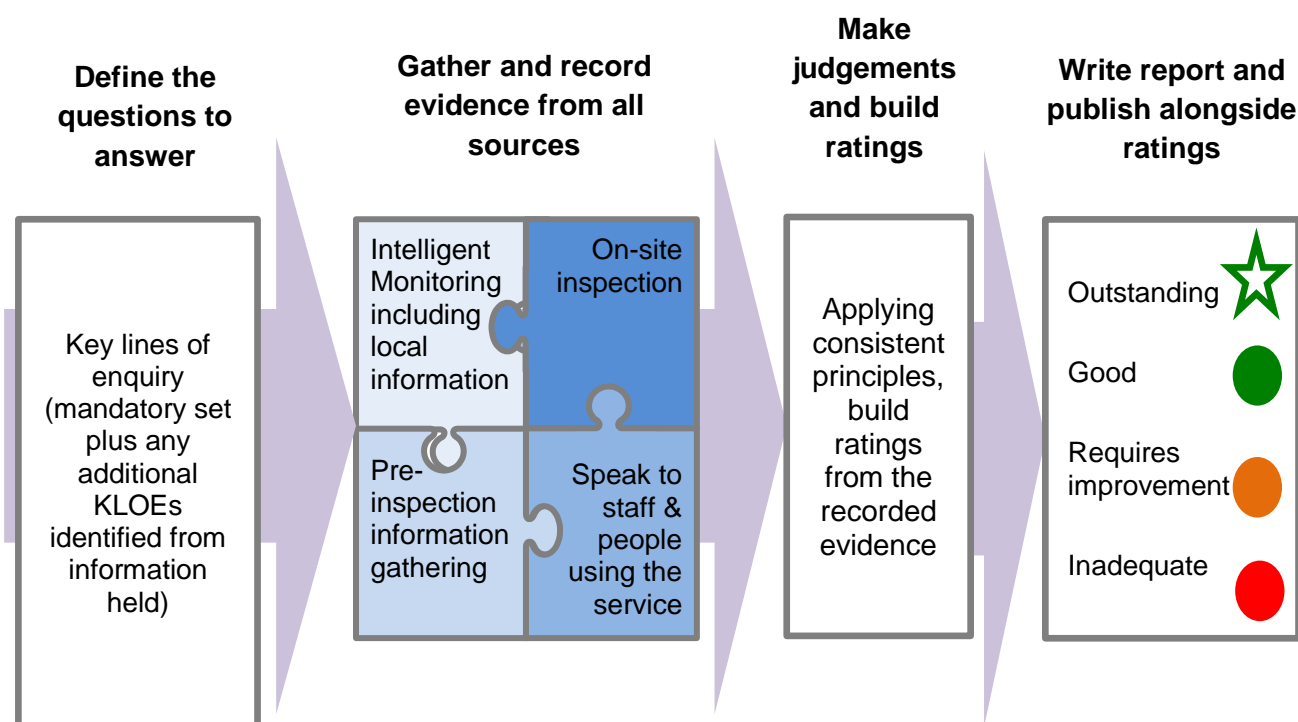
## **Ratings**

We are introducing ratings as an important element of our new approach to inspection and regulation.

As shown in figure 2, our ratings will always be based on what we find at inspection, which is informed by what people tell us, Intelligent Monitoring data, local information from the provider, what people tell us and other local sources. We will award the ratings on a four-point scale: outstanding, good, requires improvement, or inadequate.



**Figure 2: How KLOEs and evidence build towards ratings**



We have developed characteristics to describe what good, outstanding, requires improvement and inadequate care looks like in relation to each of the five key questions. These are described in appendix B.

These characteristics should provide a framework which, together with professional judgement, will guide our inspection teams when they award a rating. They are not an exhaustive list and will not be used as a checklist. They are applied using the professional judgement of the inspection team taking into account best practice and recognised guidelines, with consistency assured through the quality control process.

Not every characteristic has to be present for the corresponding rating to be given. This is particularly true at the extremes. For example, if the impact on the quality of care or on people's experience is significant, then displaying just one of the characteristics of inadequate could lead to a rating of inadequate. In the same way, a service does not need to display every one of the characteristics of good in order to be rated as good. Even those rated as outstanding are likely to have areas where they could improve.

## Consultation questions

Do you feel confident that the key lines of enquiry and the prompts will help our inspectors to judge how safe, effective, caring, responsive and well-led residential care services are? Is there anything we are missing?

Do you think that inspecting against the mandatory key lines of enquiry, plus additional ones, selected on the basis of what our intelligence tells us, will enable us to make credible and comparable judgements about services?

We have described characteristics of good, outstanding, requires improvement and inadequate for each key question. Do you agree that these characteristics are what you would expect to see in:

- A good residential care service? If not, what are your suggestions for improvement?
- An outstanding residential care service? If not, what are your suggestions for improvement?
- A residential care service that requires improvement? If not, what are your suggestions for improvement?
- An inadequate residential care service? If not, what are your suggestions for improvement?

## Consistency

In our engagement leading up to the production of this draft handbook, one of people's concerns has been about our ability to be consistent in our judgements and ratings. Consistency is one of our core principles that underpin all our work. We have put in place an overall approach for CQC to embed consistency in everything we do. The key elements of this are:

- A strong and agreed core purpose for CQC
- A clear statement of our role in achieving that purpose
- Consistent systems and processes to underpin all our work
- High-quality and consistent training for our staff
- Strong quality assurance processes
- Consistent quality control procedures.

## Equality and human rights

One of CQC's principles is to promote equality, diversity and human rights. We do this not only because it is the right thing to do, but also because respecting diversity, promoting equality and ensuring human rights will help everyone using health and social care services to receive good quality care.

To put this into practice, we have developed a **human rights approach to regulation**. This looks at a set of human rights principles in relation to the five key questions we ask. These principles are: fairness, respect, equality, dignity, autonomy, right to life and rights for staff as defined in the Human Rights Act 1998. People who use services have told us that these principles are very important to them.

Using a human rights approach that is based on rights that people hold, rather than what services should do for people, also helps us to look at care from the perspective of people who use services.

Residential services are different from other health and social care services in that they are where people live and for most people, where they spend the vast majority of their time. Consequently the positive application of human rights principles in residential services can have a great impact on people's lives. There is a particular need for us to make sure that people using adult social care services can exercise autonomy as this is often the key to people being able to exercise a range of human rights in their daily lives.

Our human rights approach is integrated into our new approach to inspection and regulation as this is the best method to make sure equality and human rights are promoted in our work. We have integrated the human rights principles into our key lines of enquiry, ratings characteristics, Intelligent Monitoring, inspection methods, learning and development for inspection teams and into our policies around judgement making and enforcement.

You can also read our **equality and human rights duties impact analysis** on our website. It lays out, in more detail:

- What we know about equality and human rights for people using adult social care.
- What we have done to date to put our human rights approach into practice.
- What we plan to do in the future – to ensure that we promote equality and human rights in our regulation of residential services.

### **Consultation questions**

We want to know whether you agree with our approach to human rights. Please see our separate **human rights approach document**, in which we are asking a number of questions.

We would also like your comments on our **equality and human rights duties impact analysis**.

## **Monitoring the use of the Mental Capacity Act 2005 and the Deprivation of Liberty Safeguards**

We have a duty to monitor the use of the Deprivation of Liberty Safeguards in all hospitals and care homes in England, and check on their use when we inspect the places where they are used. Hospitals and care homes must tell us about the outcome of their application to deprive someone of their liberty using the safeguards.

As well as our legal duty in relation to the Deprivation of Liberty Safeguards we will also inspect and report on how well the service is meeting the approach required by the Code of Practice to the Mental Capacity Act (MCA). The code applies when staff are assessing whether people aged 16 and over have the mental capacity to take particular decisions, and when they take decisions on people's behalf – for example where a service works with people who may have cognitive difficulties due to dementia or a learning disability.

In particular, we will look at how and when capacity is assessed, and, where people lack mental capacity for a decision, how that decision is made and recorded in compliance with the MCA. We will look for evidence that restraint, if used, is proportionate and complies with the MCA. Where there is a probability that a person is deprived of their liberty, we will look for evidence either of reduction in restriction, or that this has been authorised as appropriate, either through use of the Deprivation of Liberty Safeguards, the Mental Health Act 1983, or by an order of the Court of Protection.

We have reflected the importance of this in our prompts and our descriptions of ratings for safety, effectiveness and caring (appendices A and B). Both the Code of Practice and the Deprivation of Liberty Safeguards required by the Code of Practice are important safeguards for people's human rights. However, we know from our annual report of our monitoring of the Deprivation of Liberty Safeguards that improvement is needed across the sectors in which it applies. We are keen to consider how we can best support that improvement and we are therefore seeking your views.

**Consultation question**

How best do you think we can ensure that providers improve the way they conform with both the wider Mental Capacity Act and the Deprivation of Liberty Safeguards?

- a) Make sure we give sufficient weighting to this in our characteristics of good?
- b) If providers do not meet the requirements of the MCA and the Deprivation of Liberty Safeguards, apply limiters (meaning a service could not be better than requires improvement) in a proportionate way to ratings at key question level?
- c) In other ways?

## 2. Registration

Before a provider can begin to provide a regulated activity, they must apply to CQC for registration and satisfy us that they are meeting a number of registration requirements.

We said in our 2013-16 strategy document *Raising Standards, Putting People First*, that we would introduce a more thorough test for organisations applying to provide care services. This would include making sure that named directors, managers and leaders of a service commit to meeting our standards and are tested on their ability to do so. We are also committed to making the application process more streamlined through the use of online accounts.

Registration will assess whether all new providers have the capability, capacity, resources and leadership skills to meet relevant legal requirements, and are therefore likely to provide people with safe, effective, caring, responsive and high quality care. The assessment framework will allow registration inspectors to gather and consider comprehensive information about proposed applicants and services, including where providers are varying their existing registration and make judgments about whether applicants are likely to meet these legal requirements.

We will make judgements about, for example, the fitness and suitability of applicants, the skills, qualifications, experience and numbers of key individuals and other staff; the size, layout and design of premises; the quality and likely effectiveness of key policies, systems and procedures; governance and decision-making arrangements; and the extent to which providers and managers understand them and will use them in practice.

In making these changes, we intend to focus on the robustness and effectiveness of the registration system in a way that does not stifle innovation or discourage good providers of care services, but does ensure that those most likely to provide poor quality services are discouraged from doing so.

Last year, we introduced more rigorous checks of new providers applying to register learning disability services in line with the commitment we made in the Winterbourne View Concordat. This required applicants to set out the care and treatment they intended to provide within their statement of purpose, and to take account of good practice in relation to people-centred services for those with a learning disability. Their proposed approach is then tested as part of the registration assessment.

We will build on this change in our assessment process and adapt it accordingly for all new providers. We will also extend it to existing providers applying to vary their registration.

We will be seeking involvement and feedback from a wide range of stakeholders as part of our engagement around this new registration framework. We will publish full details of the changes we are making to registration in the September version of this handbook.

## 3. Local relationships

It is important that we maintain good local relationships with all stakeholders in our work, including the public and people who use services, their carers and their representative groups, providers, commissioning bodies, MPs and other members of the local health and care system.

### **How we work with people who use services, families and carers**

Local groups of people who use services and those that represent them are an important source of information. An inspection manager or designated inspector(s) is responsible for building relationships with these groups on behalf of their team. Their role is to share information about local services and to find out what local people think about the services in their area – what they do well and where they could improve. Where necessary the designated manager or inspector also coordinates action to tackle poor care.

Our intention is to actively involve local community groups and voluntary organisations in our work so they can share information and concerns about social care services. We will also involve more people who use services to help us to plan, monitor and evaluate our work; and we will involve people who use services in our inspections.

One of the main groups we work with are local Healthwatch organisations. Local Healthwatch staff and volunteers work to make sure the voices and experiences of people who use services, carers, families and the public are heard. They also influence the planning, provision and improvement of health and social care services and represent people's views on the health and wellbeing boards set up by local authorities. We will have a regular and two way relationship with local Healthwatch in every area, giving them the opportunity to share their evidence about social care services including their enter and view reports when they have visited services themselves. We will coordinate our inspection plans with their enter and view programme to ensure we are not both visiting services at the same time.

We are also developing our relationships with a range of local voluntary and community groups who work with people using adult social care services. This includes learning disability partnership boards and local learning disability groups, older people and carers groups and groups for people with dementia. Our local social care inspection teams will be able to make contact with these groups to help plan their inspections, using their knowledge of peoples' experiences of social care in the area. We are working with a number of national voluntary sector partners such as Community Service Volunteers, Carers UK, Age UK and Regional Voices to help us better



connect with the networks of local volunteer programmes, and voluntary groups. And we have made a commitment to work with local equality groups in order to gather their views of care services. We are building relationships with these local voluntary groups to gather additional information about people's experiences of care.

All the information we gather from these sources will be considered alongside the information we gather directly from people who use services to help us to:

- Design our approach to inspection.
- Plan our inspections.
- Inform our judgement about the quality of care and the rating we give.

## **How we work with providers**

It is our intention that our new approach will identify, highlight and celebrate good practice and we want to inspire providers to strive to be outstanding and continuously improve the care they provide. Our inspectors will work closely with registered providers, nominated individuals and registered managers to build open two way relationships where inspectors and providers feel able to contact each other to discuss matters as they arise. We will be more open about sharing our information and analysis and we will continue to work with providers on changes to our methods, plans, standards and guidance. In this way we can keep abreast of developments in the service and work with providers to show our commitment to improving care. We will seek information from providers about the information they gather about the experiences of people who use services and how they use this, including information about the complaints they receive and how these are handled.

## **How we work with local authorities**

We have organised our Adult Social Care Inspection Directorate in a way that reflects local authority boundaries so that we can work effectively with every local authority on commissioning, information sharing and safeguarding. Our intention is that managers will meet regularly with commissioners from local authorities to share information from contract monitoring visits, inspections and other sources. In addition to this our inspectors will attend local safeguarding meetings and managers will attend local safeguarding boards on an annual basis to provide a CQC update as appropriate.

As part of our development of local relationships we propose to arrange for our managers to also liaise regularly with health and wellbeing boards and overview and scrutiny committees which are based in local authorities. Health and wellbeing boards identify the current and future health and social care needs of the local community. We plan to share information with them to inform integrated commissioning as well as gathering information from them

about the picture of social care and its integration with healthcare across an area.

## **How we work with clinical commissioning groups (CCGs)**

We have local relationships with CCGs who commission certain specified services for local people in local communities. This can include care in rehabilitation centres and care homes with nursing for people with continuing healthcare needs. Our intention is that inspection managers will meet with CCG commissioners on a regular basis to share information we each hold. This is an opportunity for commissioners to tell us about the outcome of their contract monitoring visits and we can tell them about our inspections and other relevant information we hold. The information sharing helps commissioners and ourselves to keep up to date with developments and helps us to plan our inspections. We also plan to ask them for evidence to help us understand people's needs and experience of adult social care across the area to help us understand the quality of care in individual services.

### **Consultation questions**

We have described the key people and organisations we will work with and how we will do this.

Do you think that this approach is likely to be effective in supporting our work?

What other ways could we gather the views of all the people we need to hear from including seldom heard groups?

## **Corporate providers**

We classify the largest providers (those providing services from more than 20 locations), as 'corporate providers'. Corporate providers may run one type or a range of types of service.

From April 2014, a Deputy Chief Inspector will take the lead on the corporate management of each corporate provider. In the main, the Deputy Chief Inspectors will be from the adult social care sector and will be linked to corporate providers whose headquarters or the majority of their services are in the area they cover. Where appropriate, (for example, mental health hospitals), a Deputy Chief Inspector from the relevant sector will be allocated. The Deputy Chief Inspector will hold regular meetings to exchange information and discuss the provider's performance. An inspector from our Corporate Provider Team will support them in this role.

Smaller corporate providers will have an identified inspection manager who will meet periodically with them to exchange information and discuss the provider's performance. These meetings will generally take place quarterly, although they can be more frequent if necessary. There is no clearly defined criteria for large/small corporate providers and issues such as complexity and national interest are also taken into account in deciding whether the relationship is held by a DCI or an inspection manager.

We want to think about how we can best assess well-led in corporate providers. We will develop our methodology on this from October 2014 and test it before we roll it out more widely. As part of that testing, we intend to pilot visits to corporate providers' head offices.

## **Inspecting a combination of services**

There are a number of providers of adult social care services who also provide acute or community health services. For example, NHS trusts who have care homes on their portfolio or community health service providers who also provide some adult social care services.

As the health and care sectors become more complex, we need to be flexible to make sure we can assess providers that offer a wide range of services.

Where a provider has services in more than one sector, we will use a combination of our inspection approaches so that we can assess quality and governance across all services. Our aim is to:

- Deliver a comparable assessment of the five questions for each type of service, whether it is inspected on its own or as part of a combined provider.
- At provider level, assess how well quality and risks are managed across the different types of services.

- Generate ratings and publish reports in a way that is proportionate and meaningful to the public and people who use services, the provider and to our partners.

Our inspection of these providers will:

- Include early discussion with the provider to confirm the range of service types.
- Consider whether we need to inspect the adult social care services at the same time as an inspection of their other services are being carried out.
- Use methods that are relevant for each inspection approach.
- Wherever possible align steps throughout the inspection process. For example when we request information from the provider we will ask about all relevant services.
- Make sure we use enough inspectors and specialist experts to inspect each type of service.
- Make sure quality assurance of judgements and reports includes expertise from all relevant sectors.

We will continue to develop and test how we can make this work effectively and also how we should present our findings so that they are meaningful to all audiences.

## 4. Intelligent Monitoring

‘Intelligent Monitoring’ is how we describe the processes we use to gather and analyse information about services. Together with local insight and other factors, this information helps us to decide when, where and what to inspect. By gathering and using the right information we can make better use of our resources by targeting activity where it is most needed.

We have always used the important information in statutory notifications in this way, alongside other information about safeguarding alerts and information provided by others such as people who use services, staff and the public. We do not have a lot of quantitative data consistently collected across the sector but we are taking steps to improve this. With our new, more thorough model we intend to use our available information to check whether there is a risk that services do not provide either safe or quality care.

The Intelligent Monitoring tool is built on a set of indicators that relate to the five key questions we ask of all services – are they safe, effective, caring, responsive and well-led? The tool analyses a range of information including people’s experiences of care, staff experience and analysis of statutory returns to CQC (for example, notifications of serious incidents). The indicators raise questions about the quality and safety of care but are not used on their own to make final judgements. These judgements will always be based on what we find at inspection, which is informed by Intelligent Monitoring data and information from the service provider and other local sources.

We are currently developing the set of indicators that we will use for adult social care services. Our initial scoping work has identified the sources of information set out in table 1. We know there are limitations in the coverage of national datasets, but we will start by making better use of the indicators set out here, and then determine how we will improve this over time. We will be carrying out additional testing and engagement to determine the most useful indicators to inform our work.

**Table 1: Example indicators for adult social care services**

Outcome measures and safety events	Information from people using services and the public	Information from and about staff
<ul style="list-style-type: none"> <li>• Notification outliers - death, serious injury or abuse</li> <li>• Incidence of pressure sores, medication errors, falls</li> <li>• Admissions to hospital for preventable conditions</li> <li>• Previous inspection judgements and enforcement actions</li> </ul>	<ul style="list-style-type: none"> <li>• People’s experiences shared with CQC</li> <li>• Local Healthwatch and other local groups</li> </ul>	<ul style="list-style-type: none"> <li>• Concerns raised by staff to CQC (whistleblowers)</li> <li>• Absence of registered manager</li> <li>• Staff to client ratio, qualifications and training of staff, turnover, vacancies (Skills for Care)</li> </ul>

**Consultation question**

How confident are you that the sources of information we plan to look at will identify risks of poor quality care and good practice?

**Provider Information Return (PIR)**

We plan to use a Provider Information Return (PIR) to provide us with more information about a service.

PIRs will be electronic forms that providers complete and submit on the internet. They will help us to understand the providers’ perspective and, when necessary, challenge it constructively. The PIR asks providers to give us key information for each of the five key questions. The sections will ask about what providers do to ensure that the service is safe, effective, caring, responsive, and well-led; any improvements they have identified are needed, and how they plan to make those improvements. Some sections will ask for additional information about the key questions.

The additional information will be linked to each of the key questions and will include:

- Information about the people using services – for example data about admissions, deaths, drugs and medicines, nutrition and hydration, who commissions their care, other services and professionals involved in their care, their ethnicity and diverse needs.
- Information about staff – for example arrangements for their supervision and training, their ethnicity and diversity.
- Information about the service – for example the registered manager, Statement of Purpose, involvement in initiatives or any awards for the quality of care and support provided, application of Mental Capacity Act 2005 policies and procedures.

There will also be guidance linked to help providers complete the form, and explain what information we are looking for.

We intend for these forms to be updated periodically to help guide our activity.

When we receive the PIRs we will carefully analyse what they tell us using statistical tools and the expertise of our Intelligent Monitoring staff. These staff will prepare information packs for inspectors to help them plan their inspections.

### **Consultation question**

Do you think the best time to request information from providers is:

- In the weeks before the inspection?
- Annually
- Annually but with the opportunity for providers to update at any time?

# 5. Inspection

Our inspections will usually be unannounced. In a few instances, where there are very good reasons, we may let the provider know we are coming. For example, we will ring small homes to check that they are in before setting off to inspect.

## The inspection team

Adult social care inspections will be carried out by a single inspector or a small team who are all adult social care specialists.

Our Experts by Experience are at the heart of our new regulatory model and will be part of our inspection team, focussing on the things that matter most to people. Our Experts by Experience are people who have had a personal experience of care either because they use (or have used) services themselves or because they care (or have cared) for someone using services. We plan to work with Experts by Experience at most of our inspections. They will be members of our inspection team and will provide feedback on what they have found, either in person or through the inspector, depending on their time in the home and their availability on the day. And they will help our inspectors make their judgements.

As well as Experts by Experience, the team may also include additional inspectors or specialists with specific skills. For example, dementia specialists, pharmacy inspectors. Factors taken into account when making decisions about who is part of the team will include the size or complexity of a service, increased levels of risk or services where enforcement action is already being taken or is possible. In larger and/or complex services we may also need to spend more time in the service.

## Inspection frequencies

From October 2014, the frequency of planned inspections will be linked to ratings as follows:

- Inadequate within 6 months of the last inspection
- Requires improvement within 12 months of the last inspection
- Good within 18 months of the last inspection
- Outstanding within 24 months of the last inspection



In addition to these inspections there will be inspections that:

- Respond to risk.
- Are carried out to follow up on any action we have told the provider to take.

We will also each year inspect 10% of randomly selected good and outstanding rated services (that are not due an inspection in accordance with the timescales above).

The following sections look at how we will plan our inspections, what will happen during them, and how we will make our judgements and report our findings to the public.

## 5a. Planning the inspection

As described in section 4 (Intelligent Monitoring) above, we will analyse data from a range of sources including information from people who use services, information from other stakeholders, and information sent to us by providers. We will collate our analysis into an 'information pack' for use by the inspection team. Our inspectors will use this information along with their knowledge of the service and their professional judgement to select the additional KLOEs, ensuring that they look at areas that indicate increased risk as well as those that will support them to identify good practice.

The information we will draw on includes:

- Registration information
- Information from previous inspections (we will always follow up any required actions from previous inspections).

### **Information we receive from people who use services, the public and staff who work in the service including:**

- Comments and feedback we have received since the last inspection from individuals who use services, those that matter to them and members of the public. These may be from phone calls, letters and emails or through the 'share your experience' page on our website and includes information about compliments, complaints and concerns.
- Whistleblowing – we consider all information from whistleblowers and offer to speak to any current or former whistleblowers we know of, either before or during the inspection.
- Healthwatch, overview and scrutiny committees and health and wellbeing boards – from our local liaison.
- Local voluntary or community groups including equality groups.

### **Information from stakeholders including:**

- Comments and feedback from stakeholders involved in the care of people who use the service, such as commissioners of services, local authority safeguarding teams and health professionals.
- Comments/feedback/information from other agencies such as fire authorities and environmental health departments.

**Information from the provider including:**

- The Provider Information Return
- Statutory notifications
- Registration applications
- Action plans and updates provided after requirements have been made
- Any other information received.

## 5b. Site visits

Site visits are a key part of our inspection process, giving us an opportunity to talk to people using services, staff and other professionals to find out about their experiences. They also allow us to observe care being provided and to review people's records to see how their needs are managed both within and between services.

### The start of the visit

At the start of the inspection, the inspector will explain to the senior person on duty (this could be the registered person, nominated individual or senior person in charge):

- Which key lines of enquiry they will be inspecting.
- Whether they are following up on any previous issues.
- The proposed length of the inspection.
- The roles of the inspection team members.
- Who they plan to speak with.
- Documents they want to review.
- How they will feedback about what was found during the inspection.

### Gathering evidence

#### Gathering the views of people who use services

People who use services are at the centre of our inspection process. We will ensure that we focus on what matters to them by using the key lines of enquiry which are focussed on areas important to them, and by referring to their views and comments when we make judgements about the services they are using.

During our visit we will gather the views of people who use services and those close to them. We will do this by speaking to people who use the service both individually and in groups. We will also speak to their friends and relatives who are visiting during the inspection. We may also arrange to do this after the inspection visit if we are not able to see them on the day.

We think it is important that we also collect evidence about the experience of people who use services who may not be able to fully describe this themselves. For example, people with learning disabilities and those living with dementia and other conditions that may affect their ability to communicate. Where there are these types of communication barriers we will

use our Short Observational Framework for Inspection (SOFI)<sup>1</sup> as appropriate.

Where there are language barriers we will use interpreters.

### **Gathering the views of staff**

We will speak with the staff on duty at the time of the inspection. This might include:

- Registered manager or senior person in charge.
- Care and support staff.
- Cleaning staff.
- Catering staff.
- Maintenance staff.

### **Other inspection methods/information gathering**

Other ways of gathering evidence will include:

- Observing care (but not intimate personal care).
- Using the SOFI 2 (Short Observational Framework for Inspection) tool when there are people using the service who are unable to tell us about the care they receive.
- Tracking individual care pathways.
- Talking to volunteers, community professionals and other visitors to the service.
- Looking at the environment including individual and communal rooms
- Reviewing records.

Throughout our information gathering we will make notes about what we see, hear and read. We will inform the people we speak to that we are doing this and that we will use the information when we are making our judgement about a service.

In some situations where we have concerns we may seize some forms of evidence, use photographs and take copies of documents. We may also need to gather evidence under the provisions of the Police and Criminal Evidence Act 1984 (PACE). If we do this, we will explain to the senior person on duty what we are doing and why.

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<sup>1</sup> Short Observational Framework for Inspection (SOFI) is an observational tool used to help us collect evidence about the experience of people who use services, especially those who may not be able to fully describe this themselves because of cognitive or other problems. It enables inspectors to observe people's care or treatment looking particularly at staff interactions. SOFI is used alongside our other methods and tools and does not replace talking to people in the service who are able to tell us their views.

## **Continual evaluation**

When there is an inspection team carrying out the inspection, the lead inspector will continually review the emerging findings with the team. This keeps the team up to date with all issues and enables the focus of the inspection to be shifted if new areas of concern are identified. The review enables the team to identify what further evidence might be needed in relation to a line of enquiry and which relevant facts might still be needed to corroborate a judgement or, where appropriate, a rating. Additional key lines of enquiry may be followed as a result of findings at this point.

When there is a single inspector they will take the time to review their inspection plan through the day considering what further evidence they need in order to be able to make a robust judgement.

## **Visiting at night, in the early morning and at weekends**

Residential care services provide care and support for people 24 hours a day, seven days a week. On occasion we may visit the service to observe or talk to people at different times of the day and at the weekends. This may be so that we can get a full picture of the care at the home or it may be in response to concerns.

## **Safeguarding**

If an inspector witnesses or discovers a safeguarding issue during an inspection they follow our safeguarding protocol and bring the matter to the attention of the manager or provider of the service. If the inspector believes that a person using the service may be at risk of abuse, or is experiencing abuse at that time, they will take immediate action to stop the abuse happening, if appropriate and safe to do so. When appropriate we can make referrals directly to the local authority. Our safeguarding protocol is available on our website [here](#).

## **Closing the visit**

At the end of the inspection visit, the inspector will hold a feedback meeting with the registered manager, nominated individual, or other senior person in charge on the day of the inspection. Other members of the inspection team will also be present whenever possible. At this point in the inspection the inspector will only be able to give high level feedback which will not include what the rating for the service might be.

At this meeting the inspector will:

- Explain what has been found during the visit.
- Highlight any issues that have emerged.

- Explain that this is preliminary feedback and we cannot make a judgement until we have considered all the evidence together.
- Say when the report can be expected, how any factual inaccuracies can be challenged and what the publishing arrangements are.
- Answer any questions from the registered manager, nominated individual and receive their feedback on the inspection process so far.
- Say what the next steps will be.

## 5c. Judgements and ratings

### Making judgements

Inspection teams will base their judgements on all the available evidence, using their professional judgement. They will particularly use the key lines of enquiry, the prompts and our guidance on the ratings levels.

When making our judgements, we will consider the weight of each piece of relevant evidence. In most cases we will need to corroborate our evidence with other sources to support our findings and enable us to make a robust judgement.

When we have conflicting evidence, we will consider the weight of each piece of evidence, its source, how robust it is and which is the strongest. We may conclude that we need to seek additional evidence or specialist advice in order to make a judgement.

### Ratings and how they are informed

**Note:** This handbook outlines the approach we are proposing to use once the regulations underpinning the Care Bill are in place (subject to Parliamentary approval). We will review the principles and guidelines in light of this consultation, and amend them as required. We will also assess the consistency of decision-making on ratings through our national quality assurance processes.

Our ratings will be informed by a review of all the evidence under each key line of enquiry and will be based on what we find at inspection, which is informed by what people tell us, Intelligent Monitoring of data, local information, information from the provider and other local sources. We will award ratings on a four-point scale: outstanding; good; requires improvement; or inadequate. This link between key lines of enquiry, the evidence gathered under them, and the ratings judgements lies at the heart of our approach to ensuring consistent, authoritative judgements on the quality of care.

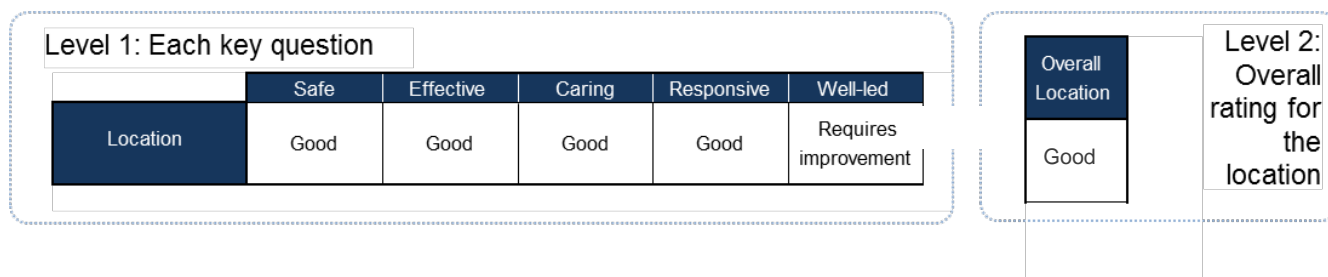
From October 2014 ratings will be published following all inspections and we plan to have rated all ASC locations by April 2016.



## What exactly do we give a rating to?

We will rate services at two levels. Firstly, we will use our rating methodology and professional judgement to produce separate ratings for each of the five key questions. Secondly, we will aggregate these separate ratings up to an overall location rating using 'ratings principles'.

**Figure 3: The levels at which services are rated**



## How we decide on a rating

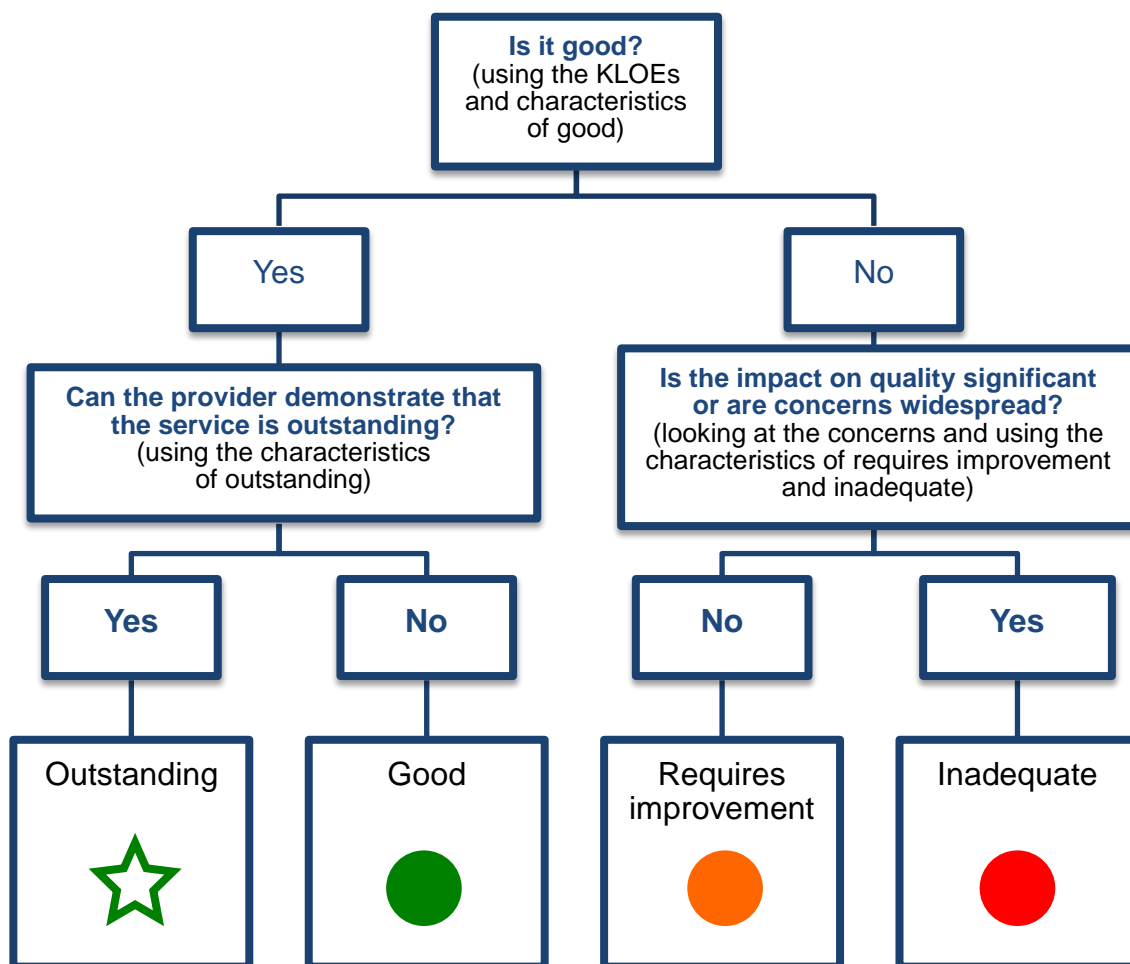
When awarding ratings for the five key questions, our inspection teams will review the evidence they have gathered throughout the inspection process against the KLOEs and use the guidance supplied to decide on a rating.

In deciding on a key question rating, the inspection team will answer the following questions:

- Does the evidence demonstrate that we can rate the service as good?
- If yes – does it exceed the standard of good and could it be outstanding?
- If no – does it reflect the characteristics of requires improvement or inadequate?

The following flowchart shows how this would work.

**Figure 4: How we decide on a rating**



Services rated as ‘inadequate’ will usually be in breach of one or more regulations. Some services rated as ‘requires improvement’ may also be failing to do so. In these circumstances we will follow enforcement processes in a proportionate way, taking action, including warning notices, where there are breaches of regulations. There will be a separate consultation about our enforcement policy in the summer and the outcome of that consultation will feed into the update of this document in September 2014.

### **The rating principles**

The five key questions have equal ‘weighting’ and contribute equally to the overall location rating.

Overall location ratings are produced using principles that show what the aggregated, overall rating is for all the possible combinations of five key question ratings. These principles are:

1. If two or more of the key questions are rated ‘inadequate’, then the overall aggregated rating will normally be ‘inadequate’.

2. If one of the key questions is rated 'inadequate', then the overall rating will normally be 'requires improvement'.
3. If two or more of the key questions are rated 'requires improvement', then the overall rating will normally be 'requires improvement'.
4. At least two of the five key questions would normally need to be rated 'outstanding' before an aggregated rating of 'outstanding' can be awarded.

## Limiters

There are a small number of events and circumstances that are sufficiently serious that they should limit a rating judgement. These circumstances and guidelines are set out in the table below. They show circumstances when relevant key questions can never normally be rated better than 'requires improvement':

Key question	Events and circumstances that mean the key question rating can never be better than 'requires improvement'
Well-led	The location has a condition of registration that it must have a registered manager but it does not have one, and satisfactory steps have not been taken to recruit one within a reasonable timescale.
	The location has any other another condition of registration that is not being met without good reason.
	Statutory notifications were not submitted in relation to relevant events at a location without good reason.

Inspectors will make proportionate judgements as to whether any of these limiters apply. For example, consideration of what is a 'reasonable timescale' in relation to not recruiting a registered manager. Where we have decide that the limiter should be applied the inspector will make a further judgement about the impact on people who use the service considering the severity of the harm caused and whether the relevant question should be rated as 'Inadequate'.

## Not awarding a rating

Sometimes, we will not be able to award a rating. This could be because:

- The service is new or not fully operational, or
- We do not have enough evidence (for example it is a 40 bedded care home that has recently opened but only eight people are living there at the time of the inspection).

In these cases we will use the terms 'Not Sufficient Evidence to Rate' (NSE) or 'Not Applicable' (NA).

There may be circumstances where professional judgement balances the available evidence and produces a different rating. Where a rating decision is not consistent with the principles, the rationale will be clearly recorded.

### **Consultation questions**

Do you agree that the five questions are equally important and should be equally rated when reaching our overall rating for the service?

Do you agree with the principles, guidelines and limiters above for arriving at an overall rating? Is there anything else we should include?

Do you agree the test of 'severity of harm' is the right test for our inspectors to apply when determining whether the key question should be rated requires improvement or inadequate?

# 5d. Reporting and quality control

## The report

Our reports will be clear, accessible and written in plain English. 'Easy read' report summaries will be produced to meet the needs of the people using the service where appropriate. The rating will be included prominently in the report.

Our reports will focus on what our findings about each of the five key questions mean for the people who use the service. We will describe the good practice we find, as well as any concerns we have. We will set out any evidence about breaches of the regulations in the 'detailed findings' section of the inspection report and action that we tell the provider they need to take will be recorded at the back of the report. The overall summary will make reference to breaches of regulations.

The inspector will lead the inspection team in providing the report which will be quality checked internally. The report will then be sent to the provider for comment in relation to factual accuracy. When factual accuracy checks have been completed the provider will be sent a copy of the final report and a copy of the overall summary to share with the people that use the service and the staff who work there.

When a breach of regulation has been identified, we will send an 'actions report' form for the provider to record how and by when the regulations will be met.

## Quality control

We have made a commitment to having strong internal quality control mechanisms, including panels that consider a sample of rating judgements to check consistency. We will involve people who use services, their families and carers in these panels. We have also set up an Academy for our inspectors to ensure that they are well trained and supported and work in a consistent way. We are also building in mechanisms to make sure our inspection reports are published in a good time, that they are clearly written in plain English and that our ratings are well publicised.

## Publication

The inspection report and rating will be published on the CQC website. We will also write to the provider with the overall summary of the report for them

to share with each person using their service, their family and carers and the staff of the service.

## **Encouraging improvement**

A vital part of CQC's purpose is in encouraging services to improve. The evidence-gathering process, post inspection meeting, publication of our reports and ratings of service are all intended to promote improvement. However, we would welcome views about whether there is more we could do to publicise where we identify excellent practice or care to enable services to learn from the example.

### **Consultation question**

Are there ways in which we could promote learning between providers and services, particularly where we have identified outstanding care?

## **Ratings review process**

CQC will have in place a process whereby providers can ask for a review of their rating. We want to ensure that providers can raise legitimate concerns about the way we apply our ratings process, and have a fair and open way for resolving them.

Providers can challenge the factual accuracy of reports and make representations about the evidence in warning notices. These steps will normally be the means by which providers will also challenge the ratings CQC has awarded, because ratings are awarded on the basis of the evidence about the quality and safety of their service.

The following routes are open to providers to challenge our judgements. They will be amended and updated as necessary in light of responses to this consultation.

### **Factual accuracy check**

When providers receive a copy of the draft report (which will include their ratings) they are invited to provide feedback on its factual accuracy. They can challenge the accuracy and completeness of the evidence on which the ratings are based. Any factual accuracy comments that are upheld may result in a change to one or more rating. Registered persons have 10 working days to review draft reports for factual accuracy and submit their comments to CQC.

## **Warning notice representations**

If CQC serves a Warning Notice it gives registered persons the opportunity to make representations about the matters in the Notice. The content of the Notice will be informed by evidence about the breach which is in the inspection report. This evidence will sometimes have also contributed to decisions about ratings. Therefore As with the factual accuracy check, representations that are upheld that also have an impact on ratings may result in relevant ratings being amended.

Under our process for factual accuracy checks and warning notice representations, unresolved issues can be escalated to managers in CQC who were not involved in the inspection.

## **Request for a rating review**

If factual accuracy checks and warning notice representations do not resolve the issues then providers can ask for a review of both individual key question ratings and overall location ratings. The only grounds for requesting a review is that the inspector did not follow the process for awarding them properly, as described in published policies and procedures. Providers cannot request reviews on the basis that they disagree with the judgements made by an inspector, as such disagreements would have been dealt with through the factual accuracy checks and warning notice representations.

Where a provider thinks that we have not followed the published process properly and wants to request a review of one or more of their ratings, they must tell us of their intention to do so once the report is published. We will reply with full instructions on how to request a review.

Providers will have a single opportunity to request a review of their inspection ratings. In the request for review form, providers must say which rating(s) they want to be reviewed and all relevant grounds and circumstances. Where we do not uphold a request for review, providers cannot request a subsequent review of the ratings from the same inspection report.

When we receive a request for review we will explain on our website that the ratings in a published report are being reviewed. A review will be undertaken by senior CQC staff who were not involved in the relevant inspection and a report presented to the Rating Review Panel.

The panel will be chaired by an independent reviewer from outside CQC, who will provide wholly independent advice. The role of the panel is to provide advice to Chief Inspectors/Chief Executive about whether to uphold or reject the provider's concerns.

The panel will consider the report and make recommendations to the relevant Chief Inspector (or Chief Executive where the Chief Inspector was part of the original rating judgement). The Chief Inspector/Chief Executive will make a final decision.

The outcome of the review will be sent to the provider following the final decision. Where a rating is changed as a result of a review, the report and ratings will be updated on our website as soon as possible.

The review process is the final CQC process for challenging a rating. Providers can challenge our decisions elsewhere – for example by complaining to the Parliamentary and Health Services Ombudsman or by applying for judicial review.

### **Consultation question**

Do you agree with the grounds on which providers can challenge their inspection reports and ask for a review of their ratings? Do you feel confident that the proposed reviews process is sufficiently clear and robust?



## **Complaints about CQC**

We aim to deal with all complaints about how we carry out our work, including complaints about members of our staff or people working for us, promptly and efficiently.

Complaints should be made to the person that the provider has been dealing with, because they will usually be the best person to resolve the matter. If the complainant feels unable to do this, or they have tried and were unsuccessful, they can call, email or write to us. Our contact details are on our website.

We will write back within three working days to say who will handle the complaint.

We'll try to resolve the complaint. The complainant will receive a response from us in writing within 15 working days saying what we have done, or plan to do, to put things right.

If the complainant is not happy with how we responded to the complaint, they must contact our Corporate Complaints Team within 20 days and tell us why they were unhappy with our response and what outcome they would like. They can call, email or write to our Corporate Complaints Team. The contact details are on our website.

The team will review the information about the complaint and the way we have dealt with it. In some cases we may ask another member of CQC staff or someone who is independent of CQC to investigate it further. If there is a more appropriate way to resolve the complaint, we will discuss and agree it with the complainant.

We will send the outcome of the review within 20 working days. If we need more time, we will write to explain the reason for the delay.

If the complainant is still unhappy with the outcome of the complaint, they can contact the Parliamentary and Health Service Ombudsman. Details of how to do this are on the Parliamentary and Health Service Ombudsman website.

## 6. Enforcement and actions

### Relationship with the regulations

The Department of Health is currently consulting on proposed regulations to replace the current registration requirements. This is in response to the Francis report and other findings such as the Winterbourne View Serious Case Review.

In the summer we will consult on guidance for providers that will underpin the new regulations. We will also consult on our enforcement policy. The new regulations, our provider guidance and the new enforcement policy will be implemented from the 1st of October 2014, along with our new approach as set out in this document.

The table below sets out the usual relationship between the regulations and ratings. The regulations will continue to be central to our approach, and we will not hesitate to use them to take action where appropriate against providers where we find breaches.

Overall rating	Level of compliance with regulations	High level characteristics of each rating level
Inadequate	Non-compliant (with the exception of well-led, which is not completely covered by the regulations)	Severe harm has or is likely to occur, shortfalls in practice, ineffective or no action taken to put things right or improve
Requires improvement	Non - compliant Or Compliant	May have elements of good practice but inconsistent, potential or actual risk, inconsistent responses when things go wrong
Good	Compliant + (i.e. more than just compliant)	Consistent level of service people have a right to expect, robust arrangements in place for when things do go wrong
Outstanding	Compliant ++	Innovative, creative, constantly striving to improve, open and transparent

A fit and proper person test applied by providers will be made a requirement of CQC registration. The test will place a clear duty on health and social care providers to make sure directors and board members (or their equivalents) meet criteria set out in the test.

Organisations retain full responsibility for appointing directors and board members (or their equivalents). However, CQC will be able to intervene where it considers an individual is not a fit and proper person, and place a condition on a provider to remove the director if there is evidence that they have previously been involved in failures to deliver good quality, safe care.

A new statutory duty of candour will be placed on all organisations registered with CQC from October 2014. This means that people, and where appropriate their families, must be told openly and honestly when unanticipated things happen, which cause them harm above a pre-determined threshold. They should be given an apology, an explanation, all necessary practical and emotional support, and assurances about their continuity of care. This statutory duty on organisations supplements the existing professional duty of candour on individuals. We will be considering this statutory duty as part of our assessment.

## **Types of action and enforcement**

Where we have identified concerns we will decide what action is appropriate to take. The action we take will be proportionate to the impact that the concern has on the people who use the service and how serious it is.

Where the concern is linked to a breach of a legal requirement, we have a wide range of enforcement powers given to us by the Health and Social Care Act 2008. Our Enforcement policy describes our powers in detail and our general approach to using them.

Enforcement action can be taken under either:

- **Civil enforcement:** to protect people from harm
- **Criminal law:** to hold a registered provider or manager to account in court in relation to a significant failing.

Where there are breaches of the legal requirements we will tell providers what action they must take and for those services rated 'good' or 'requires improvement' we will identify areas where you should improve.

We will follow up any action we take. If the necessary changes and improvements are not made, we can escalate our response. However, we always consider each case on its own merit and we will always consider the most appropriate response by reference to those individual circumstances.

The Department of Health's proposals to change the Health and Social Care Act 2008 (Regulated Activities) Regulations 2010 should make it easier for the CQC to prosecute, as there will no longer be a requirement for us always

to have issued a warning notice prior to prosecution for a breach of those 2010 Regulations. This decision to prosecute for any breach for which we consider we have evidence will rest with CQC, and Department of Health suggest that a proportionate approach is taken. Where the fundamental standards are not met and it has caused harm, then CQC should prosecute. If it has not caused harm, CQC can nevertheless take enforcement action. This is where our enforcement policy will come into play and a proportionate response will be determined in accordance with it.

As we develop our new approach we will engage with key stakeholders and the public to ensure we reflect the key characteristics, risks and quality issues. The Department of Health hopes that the amended Regulation Activities Regulations will become law by October 2014. CQC will be consulting on guidance on how the new rules will work in practice. We will also consult on our enforcement policy in readiness for implementation from October 2014.

## 7. Re-inspection/follow-up

We will follow up actions we tell providers to take using the action plan sent to us by the provider. We may follow up by ringing the provider or visiting the home.