

Inspecting together

Developing a new approach to regulating healthcare in prisons, young offender institutions and immigration removal centres



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.

Her Majesty's Inspectorate of Prisons (HMI Prisons)

HMI Prisons' purpose:

HMI Prisons ensures independent inspection of places of detention, reports on conditions and treatment and promotes positive outcomes for those detained and the public.

HMI Prisons' role:

The statutory responsibility of the HM Chief Inspector of Prisons is to report on the treatment of and conditions for prisoners in England and Wales and immigration detainees in the United Kingdom (UK). HMI Prisons also inspects court, police and customs custody facilities with Her Majesty's Inspector of Constabulary (HMIC), and secure training centres with Ofsted. By invitation, HMI Prisons inspects some military detention facilities and places of detention in other jurisdictions.

HMI Prisons' principles:

Ensuring human rights is at the heart of its work. HMI Prisons is the coordinating body for the UK's National Preventive Mechanism (NPM), which monitors places of detention in the UK under the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT).

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Introduction from CQC's Chief Inspector of General Practice

As Chief Inspector of General Practice at CQC, my responsibilities include overseeing the inspection and assessment of quality in health and justice services, general medical practice, primary care dental services, integrated services across health and social care, child safeguarding and children's services inspections, medicines management, GP out-of-hours services and the NHS 111 service.

CQC's role in monitoring, inspecting and regulating healthcare in secure settings is particularly important. People who use services in secure settings are generally in a more vulnerable situation because they rely on authorities for their safety, care and wellbeing, and they are unable to choose their care. It is our responsibility to ensure that detainees are safeguarded against ill treatment and receive the same quality of care as the rest of the population.

In the past it has been a challenge to get a clear picture of the services that are provided in prisons, young offender institutions and immigration removal centres. But with NHS England taking over the commissioning of these services, we are confident that information in this area will become more transparent and robust, and this will be hugely beneficial to our new joint approach.

I am pleased to have such a strong working relationship with HMI Prisons in this sector. They have a great deal of expertise and experience and we will be looking at ways to share information and expertise between our organisations. Our new approach will draw on the strength of our respective organisations to create an inspection model that works for everyone.

This signposting statement highlights some of the questions that we need to consider over the coming months in order to build an inspection framework that not only works for this sector, but also complements the progress we are making in other sectors.



Professor Steve Field
CBE FRCP FFPH FRCGP
Chief Inspector of General Practice, Care Quality Commission



Introduction from HM Chief Inspector of Prisons

I welcome this statement of intent from CQC. It indicates a commitment to developing their role and approach to inspection of health and social care in custodial settings, and it affirms the role of CQC as part of the UK's National Preventative Mechanism (NPM) in England.

I have no doubt that at the conclusion of this process, our respective approaches to inspection will be further aligned so that the inspection of health and social care outcomes for detainees is optimised.



Nick Hardwick CBE
HM Chief Inspector of Prisons

“CQC and HMI Prisons both recognise the need to provide a more cohesive joint view of healthcare within secure settings”



Monitoring, regulating and inspecting prisons, young offender institutions and immigration removal centres

CQC's role is to monitor, inspect and regulate all care services to make sure they meet fundamental standards of quality and safety, and to publish what we find to help to improve services and to help inform people who use services.

In 2013, our consultation, *A New Start*, set out the principles that guide how CQC will inspect and regulate care services. It sets out our new operating model, which includes:

- Registering those that apply to CQC to provide services.
- Intelligent use of data, evidence and information to monitor services.
- 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 for some services to help people choose.
- 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.

These principles will also guide our monitoring, inspection and regulation of any CQC-registered healthcare that is provided in prisons, youth offender institutions (YOIs) and immigration removal centres (IRCs), but the detail of how we do this will be designed specifically for these services. This document describes our early thinking about how we will regulate the health and justice sector and marks the start of a discussion about this.

One key difference for the health and justice sector is that we work very closely with Her Majesty's Inspectorate of Prisons (HMI Prisons). This is because both CQC and HMI Prisons have different, specific statutory responsibilities for looking at healthcare in secure settings.

- CQC's responsibilities are to monitor, regulate and inspect the providers of healthcare within secure settings.
- HMI Prisons' responsibilities are to inspect and report on conditions for and treatment of those detained in prisons (including YOIs) and other places of custody.

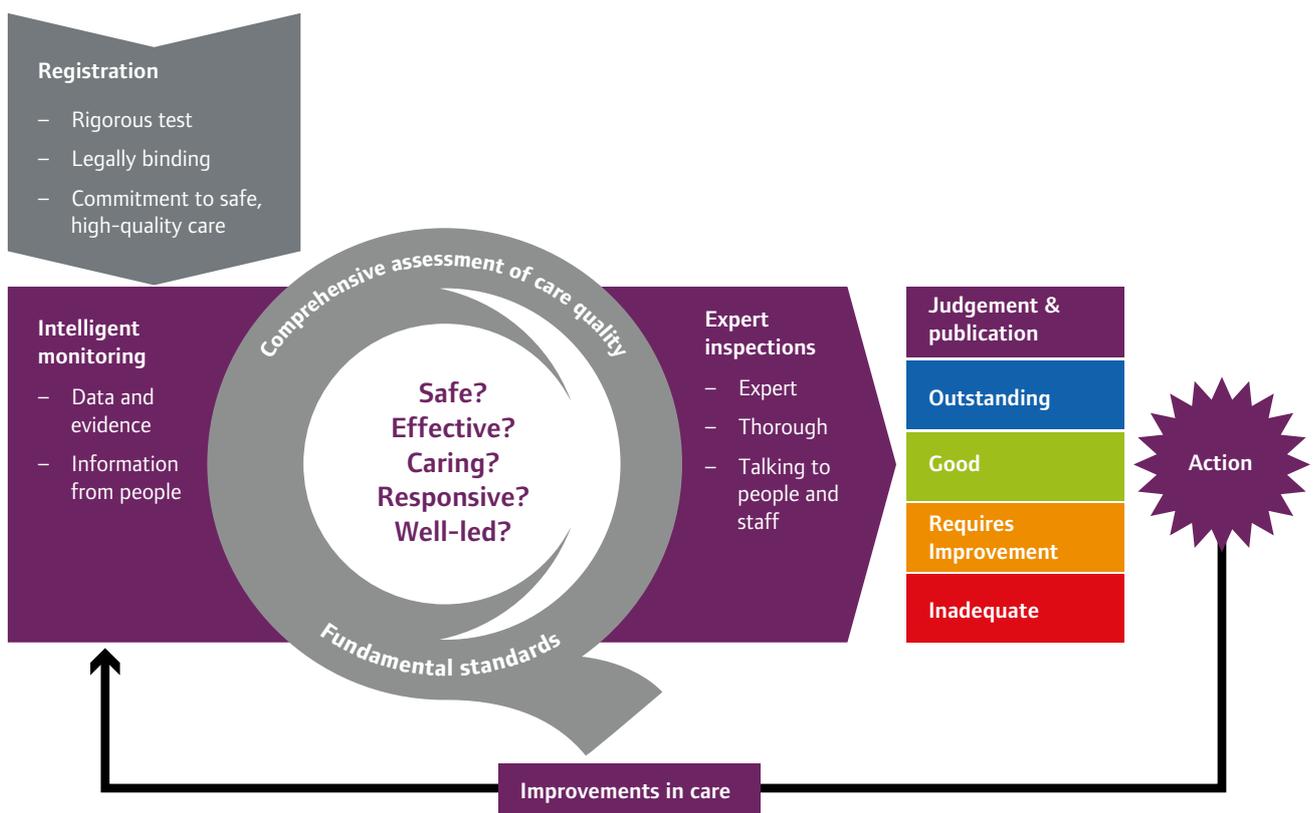
We have worked with HMI Prisons to develop this statement and will continue to work closely together as we refine and implement our approach.

We are committed to developing our approach in partnership with and listening to the voices of people who use or have used health and justice services, as well as those who provide them. We recognise that it is difficult to involve people who use services during an inspection in health and justice settings, and that we will need to develop new approaches, which may include joining in with other listening activities already taking place. For example, on prison inspections, our inspectors currently join focus groups with detainees run by HMI Prisons and also speak to detainees individually. We have found that making links with voluntary sector organisations is a useful way to

engage with people who may have used health and justice services recently and we will continue to develop these networks.

Although we are adopting the principles and key elements of CQC's operating model (shown in figure 1) to develop our new approach to inspecting health and justice services, some of the details will be different to the methods used in other sectors that we regulate. This is because of the types of risks posed by this sector and the role of other regulatory and oversight bodies. It is also because of the different ways in which these services are managed and provided to people.

FIGURE 1: OVERVIEW OF CQC'S GENERAL OPERATING MODEL



Note: We do not intend to rate health and justice services when we begin our new approach in 2015/16.

Our inspections of other services result in a rating of the quality of the care they provide. However, we do not intend to rate health and justice services when we start our new approach to inspection in 2015/16. As part of the engagement work on this statement, and in discussion with stakeholders, we are seeking views on whether we should rate services in the future. HMI Prisons already rates services and will continue to do so. The relationship between HMI Prisons and CQC ratings will need to be considered in any future debate.

We will explore with our partners, and particularly with HMI Prisons, how we use data and share information. We will also explore how we could use Experts by Experience in our new approach (Experts by Experience are people who have experience of using a similar service to the one being inspected) and whether specialist advisers may be used on inspections.

What do we mean by health and justice services?

Health and justice services cover a wide range of health and social care provided in both community and secure settings. This can be anything from general practice and social care through to acute and end of life care. Secure settings include:

- Prisons
- Young offender institutions (YOIs)
- Immigration removal centres (IRCs)
- Police custody
- Secure training centres (STCs).

These services are provided by a range of organisations, including NHS community health trusts, NHS mental health trusts and independent health and social care providers. For some of these providers, health and justice may be a very small part of the services they offer, while others may specialise in care within prisons and other secure settings. We also inspect services provided in the community in other settings, for example health services provided by youth offending teams (YOTs).

The initial focus for our approach to regulating health and justice services will be on services provided within prisons, YOIs and IRCs. It makes sense to consider healthcare services in these settings together because they are all commissioned in the same way through NHS England and our inspections for all three types of service are conducted alongside HMI Prisons. As we move forward with our plans for other services, we will also need to consider and discuss a new approach to inspecting healthcare provided while in police custody and engage with HMI Constabulary on this area. There is an existing joint framework between CQC and Ofsted for inspection of STCs.

There are 119 prisons in the UK, with a total detained population of 85,385 adults (September 2014). Just 5% of detainees are women. In addition there are six YOIs that hold juvenile offenders aged under 18. There is a higher than average rate of ill health among the prison population. For example, in 2013, the Ministry of Justice reported that 49% of female and 23% of male prisoners were assessed as suffering from anxiety and depression, compared with 19% of women and 12% of men in the general UK population.

IRCs hold asylum seekers on their arrival to the UK while they are waiting for a decision on their case or waiting to be deported. There are 12 IRCs in the UK holding a total of 3,079 people (June 2014).

What are CQC's statutory responsibilities in relation to health and justice?

The nature of detention means that it is largely out of sight of the public. This puts detainees in a more vulnerable situation where they rely on authorities for their safety, care and wellbeing. It also means that, unlike the general population, they are unable to choose their care. All of this makes monitoring, inspection and regulation even more important, as it ensures that detainees are safeguarded against ill treatment and guarantees them care at a level that is equivalent to the rest

of the population. As independent monitoring and inspecting bodies, CQC and HMI Prisons both have responsibilities as members of the UK's National Preventive Mechanism (NPM) to prevent ill treatment of people in prison. The NPM is required under the international human rights treaty, the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT).

Providers that carry out regulated activities under the Health and Social Care Act 2008 within a secure setting are required to register with CQC and are monitored and inspected in partnership with HMI Prisons through our inspections of secure settings. In line with HMI Prisons's scheduling framework, prisons are inspected at least once every five years. In practice, inspections are usually more frequent, with prisons receiving an inspection on average every 2.6 years. IRCs and YOIs are inspected at least every two years. In addition, CQC can carry out responsive inspections if there are any concerns about a service. These are also usually carried out alongside HMI Prisons.

Joint scheduling of inspections is important because it allows us to share information, reduce duplication and minimise the burden on providers. However, at present, although inspections are jointly scheduled, HMI Prisons and CQC inspectors inspect against different standards and produce separate reports. This is because HMI Prisons and CQC have different statutory responsibilities to fulfil. While CQC's statutory responsibility is to look at the organisations that provide regulated activities, HMI Prisons' responsibility is to give a more holistic view of the health and care services provided in the secure setting (some of which may not be required to register with CQC).

What CQC has found in inspections of health and justice services

Since April 2009, we have inspected at least one care provider in every prison, YOI and IRC in England. We have identified more concerns with care providers in the health and justice sector than with providers in other sectors. For example, recent inspection data based on 48 inspections between January and August 2014 demonstrates that one in four health and justice services inspected were not meeting the regulations in some way. This is in comparison to one in five adult social care providers and one in eight dental providers. The main area of concern that our inspectors identified was around the care and welfare of people using services (Regulation 9 of the Health and Social Care Act 2008 (Regulated Activities) Regulations 2010).

A joint report by CQC and HMI Prisons in 2010 identified a need for improvement in healthcare in adult prisons. In particular there were concerns over arrangements for continuity of healthcare around prisoners' transfer and release.

Providers do not always need to register a prison or other secure setting as a separate location because their headquarters or base will usually be the registered location. This means that it can sometimes be difficult for our inspectors to find out which services are operating at a location and have the necessary information about them before they arrive on site for an inspection.

“ Unlike the general population, detainees are unable to choose their health care ”

Changing landscape within the sector

When CQC first started inspecting the health and justice sector, health services provided in secure settings were commissioned by different local and national bodies and some services were exempt from registration. In addition, those services that were required to register with CQC did not all meet the criteria to be registered as a separate location for regulatory purposes. This made it difficult to routinely monitor the combination of services provided within every secure setting.

From April 2013, NHS England became responsible for commissioning healthcare services and facilities in prisons, YOIs and IRCs. This means that we will increasingly be able to gain a comprehensive view of which providers and services are available at each secure setting before we inspect. Now that all services are commissioned in the same way, we expect to see greater consistency in services offered in secure settings across England.

In addition to healthcare, there is increasing recognition of the importance of adult social care in secure settings. The Care Act 2014 makes local authorities responsible for assessing all adults who are in custody in their area and they must prepare a care and support plan to outline how to meet their needs. We will need to do more work to understand the implications of this for the role of CQC in regulating health and social care in the criminal justice sector.

All of these changes, alongside the development of our new operating model, mean that we have an opportunity to consider how we currently monitor, regulate and inspect health and justice services and to explore with our stakeholders how we might develop this in the future.

“CQC has identified more concerns with care providers in the health and justice sector than in other sectors”



Our priorities for health and justice services

This signposting statement sets out our approach to inspecting and regulating healthcare within prisons, young offender institutions (YOIs) and immigration removal centres (IRCs), and sets the scene for how we will work with HMI Prisons and others to develop and deliver our model in the longer term.

In developing our new approach to regulating and monitoring health and justice services, we have set out four priorities.

Priority 1: Working with HMI Prisons to develop a new, more integrated approach to inspection

CQC and HMI Prisons both recognise the need to provide a more cohesive joint view of healthcare within secure settings, while each meeting our individual responsibilities for the services we inspect and/or regulate. To date, our inspections and reporting methods have run alongside each other. This partnership has helped us to minimise duplication and burden.

We are committed to working together to develop a more integrated framework for inspections, which will make efficient use of our resources

and will support us to continue to present a comprehensive view of the care that is being provided within each setting. This could take many forms. We need to explore a range of options from coordinated scheduling of inspections to a fully integrated model that results in a single joint report. We will be working closely with HMI Prisons and other key stakeholders, such as NHS England, to develop our ideas and model in the coming months.

What is clear is that the approach will need to be based on a shared understanding of each other's statutory responsibilities and the different standards that we look at on inspections. CQC asks five key questions about services when we inspect and, while there is some overlap between these and the healthy prisons tests used by HMI Prisons and the intercollegiate standards (which relate specifically to children and young people only), there are also differences. We will need to find better ways of sharing information with each other and we need to be sure that the information is consistent, reliable and transferable. We will also need to make sure that we plan inspections to make the best possible use of the skills and expertise of our own inspection team and of the HMI Prisons healthcare inspection team.

Priority 2: Developing our approach to ratings

Services provided in health and justice settings include the full range of primary and secondary healthcare services. From October 2014, CQC started to rate all the services we inspect, outside of secure settings, with the exception of dentistry. Since many of these services also provide healthcare within secure settings, it is important that our approach to inspecting the health and justice sector takes into account our broader ratings-based model. For example, if we have concerns about the care provided by a mental health trust within a secure setting, should this impact on the trust's overall rating? Should we consider giving ratings to services within secure settings independently of the other services the provider offers?

We also need to consider how we should work with HMI Prisons to report our findings, both jointly and separately. As discussed in priority 1, there is some overlap between our inspection frameworks, but not all of CQC's five key questions are replicated by other sets of standards and expectations. We also recognise that HMI Prisons already rates services and will continue to do so.

We will set out our approach, answering these questions and others, by January 2015.

Priority 3: Improving the intelligence we hold about health and justice services

We will ensure that we have a clear and effective registration system in place that allows us to identify providers of care in secure settings more easily than we have been able to do in the past. This may require further guidance for providers to emphasise how and when they should register

locations in secure settings. We will work with NHS England to understand the full picture of how they are commissioning health and justice services in England.

“ Our joint approach will need to be based on a shared understanding of each other's statutory responsibilities and the different standards we look at on inspections ”

If we inspect and report on a service in a secure setting that is run by a provider assessed as part of our other regulatory work, we will ensure that information is shared internally with appropriate teams.

As part of our longer term approach to regulation of this sector, we will also start to explore sources of information that may support the development of a data pack in line with other sectors that we regulate. The data pack would provide useful information about the services and providers operating within a particular setting to support our inspectors before an inspection. Once sources of data are established, we will start to explore the possibilities of developing our Intelligent Monitoring approach for the sector.

Priority 4: Building our expertise and experience in the health and justice sector

We anticipate that the majority of health and justice inspections will be carried out by a core team of inspectors. This will allow these people to become experts in this area. To effectively deliver the proposals in this signposting statement, we will need to consider how we can ensure that the team has the appropriate expertise and knowledge. This is likely to include the development of specific training to support our inspectors.

We will also consider how the team uses specialist advisers. As health and justice services include all types of NHS healthcare, we may want to include specialist advisers with different backgrounds depending on the skills and expertise of the team and the types of services that will be inspected.

We recognise that involving people who use services in inspections is difficult in health and justice settings and that we will need to develop new approaches. This may include joining in with other listening activities already taking place, such as focus groups run by HMI Prisons on inspections. As part of our work to develop our approach, we will consider the use of Experts by Experience.



What will happen next?

This signposting statement sets out our initial thoughts on a new regulatory model for this sector. We want to make changes quickly, but without compromising our commitment to co-production and quality. We will actively engage providers of healthcare in secure settings, people who use services and other stakeholders to ensure we develop a regulatory model that reflects the key characteristics, risks and quality issues for the sector, and is seen as fair, transparent and effective in improving services for those who use them. We will work closely with HMI Prisons throughout the process.

Current proposed timeline for changes to the health and justice sector

October 2014:

- Publication of this signposting statement.

November 2014 onwards:

- Ongoing engagement with internal and external stakeholders.
- Development of the joint inspection framework with HMI Prisons.

January to March 2015:

- Formal 8-week consultation on new guidance for all providers on the joint inspection framework, including how to comply with the new regulations and CQC's enforcement policy.

April 2015:

- Publication of joint inspection framework.

Although this is not a formal consultation, we would like to hear your views on our proposals and changes that we have set out in this document. If you would like to get in touch, please contact us at cqcinspectionchangesj@cqc.org.uk

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Please respond to the proposals in this statement
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