

Response to our consultation on our
approach to regulating

**Health and social care in prisons
and young offender institutions,
and health care in immigration
removal centres**

July 2015

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 values

- Excellence – being a high-performing organisation
- Caring – treating everyone with dignity and respect
- Integrity – doing the right thing
- Teamwork – learning from each other to be the best we can.

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

Our consultation formally proposed our approach to regulating and inspecting health and social care in prisons and young offender institutions (prisons for young people aged 15-21), and healthcare in immigration removal centres (holding centres for detainees awaiting decisions on their residency status or deportation following an unsuccessful application).

In October 2014 we published a signposting statement called 'Inspecting together, developing a new approach to regulating healthcare in prisons, young offender institutions and immigration removal centres'. It set out our initial thoughts on a new regulatory model for inspecting and regulating healthcare within prisons, young offender institutions (YOIs) and immigration removal centres (IRCs), and set the scene for how we proposed to work with HM Inspectorate of Prisons (HMIP) and others to develop and deliver our model in the longer term.

Since then we have engaged with internal and external stakeholders to develop a joint inspection framework with HMIP and are now presenting the findings of the formal consultation.

There are currently 119 prisons in England and Wales, with a total detained population of 85,564 adults (March 2015). Approximately 5% of detainees are women. In addition, there are six young offender institutions (YOIs). 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. There are 12 immigration removal centres (IRCs) in the UK holding a total of 3,462 people as at the end of December 2014. IRCs can hold men, women and children.

There are usually multiple providers of health and social care in secure settings covering a wide range of services. This includes general practice and personal care, through to acute and end of life care. These services are provided by a range of organisations, including NHS 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, others may specialise in care within prisons and other secure settings.

The nature of detention is 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, detainees are unable to choose their care provider. All of this makes monitoring, inspection and regulation even more important, ensuring quality of care at a level that is equivalent to the rest of the population.

Our consultation

This consultation ran from 30 March 2015 to 24 May 2015.

We proposed a joint approach whereby CQC and HMIP will work together to protect and promote the interests and rights of people who use health and social care services in secure settings.

Although CQC has the legal right to inspect registered healthcare providers, we will enter secure settings under the powers granted to HMIP.

The proposal allowed CQC and HMIP to share information, reduce duplication and minimise the burden on providers. It suggested bringing together:

- Elements of HMIP's criteria for assessing the treatment of detainees and conditions in secure settings, known as 'expectations'.
- The Royal Colleges' 'Healthcare Standards for Children and Young People in Secure Settings'.
- CQC's operating model including the five key questions we ask about services.

How we engaged and who we heard from

We promoted the consultation on our website, through our social media channels, and on our online community for providers and professionals (around 7,500 members) and the public (around 2,600 members).

We directly contacted all registered providers of health and social care in secure settings (85 organisations) to let them know about the consultation. We also informed attendees to our health and justice co-production group that the consultation was taking place, and included the consultation in our bulletin for members of the public, and in newsletters to local Healthwatch and overview and scrutiny committees.

We accepted formal submissions to the consultation online, by email and by post. We also received additional feedback from the CQC public online community, and from a variety of events organised by both CQC and external groups.

We organised a webinar with local Healthwatch and Healthwatch England to discuss the proposed joint inspection process.

We heard from a range of individuals and stakeholders throughout our consultation.

- We received responses through the CQC website which included:
 - 13 healthcare professionals
 - Five social care professionals
 - Five providers of services
 - Three members of the public

- Three recipients of healthcare
 - Three voluntary and community sector representatives
 - Three stakeholders
 - Two CQC staff members
 - One commissioner of services.
- 22 respondents submitted written responses to some or all of the consultation questions.
 - 101 members of the CQC public online community responded to a Health and Social Care in Secure Settings consultation online task, which addressed six of the consultation questions.
 - 14 participants attended a Clinks and CQC workshop which was set up to engage with service users and their families in the criminal justice sector.
 - 13 attendees participated in the criminal justice consultation discussion.
 - 10 participants attended the CQC IRC stakeholder event.
 - Nine participants from local Healthwatch and Healthwatch England took part in a webinar.
 - Multiple people contributed to the Clinks report on person-centred health care for offenders in the community.

How we analysed feedback from the consultation

We commissioned Quality Health, an external organisation, to support the consultation process. Quality Health has reviewed, analysed and reported on all the feedback collected from the consultation. We have published their full report on our website. This provides analysis of all responses received.

What you told us and our response

Consultation question 1

Do you agree with the proposal for a joint HMIP/CQC inspection framework?

What you said

We received 47 responses to this question. All respondents, except one, agreed with our proposal for a joint HMIP/CQC inspection framework.

In addition, 98% of the public online community agreed with the proposal.

Our response

We have implemented a joint framework and a standard set of key lines of enquiry (KLOEs) to ensure there is consistency in what we look at and a focus on the things that matter most, including peoples' experience of care. We believe that this is vital for reaching a credible, comparable judgement.

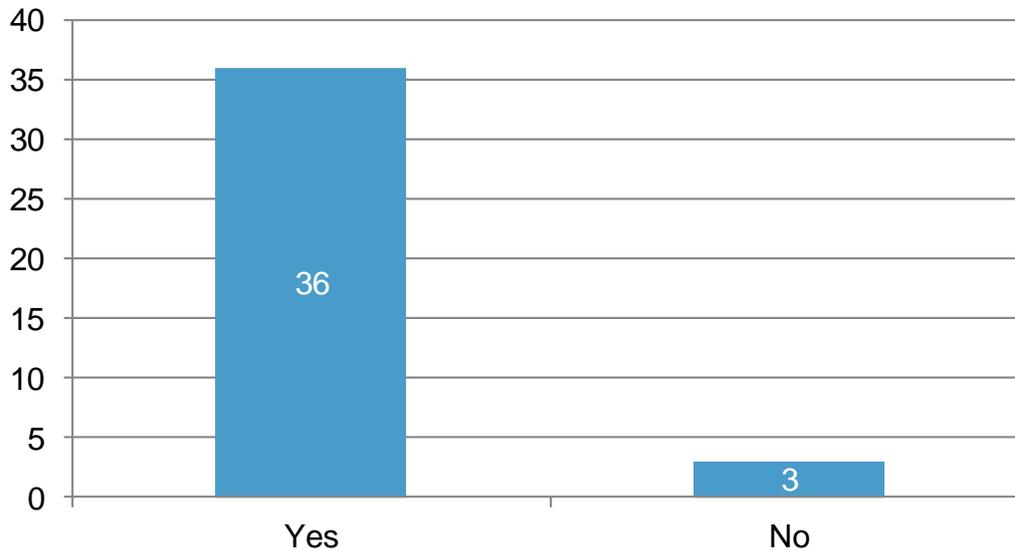
Consultation question 2

- Do you have any comments on the assessment framework of KLOE, prompts and characteristics set out in appendix A?
- Will the framework help to ensure a robust assessment of care in secure settings?

What you said

We received 39 responses to the question about our framework. The majority agreed that the framework would help to ensure a robust assessment of care in secure settings.

Do you consider that this will help to ensure a robust assessment of care in secure settings?



We also received detailed comments on the assessment framework, including:

- Place a greater emphasis on monitoring the prevention of medical conditions and promoting good health.
- Inspect the security of medical records to ensure patient confidentiality is maintained at all times.
- Consider access to regularly required medication – ensure it is given at the correct times of the day.
- Amend the KLOEs to ensure they are also relevant to short-term holding centers.
- Inspect compliance with health records being available and used to ensure appropriate, ongoing care.
- Clarify how pathways will be inspected as fit-for-purpose for people who have a learning or physical disability.

Our response

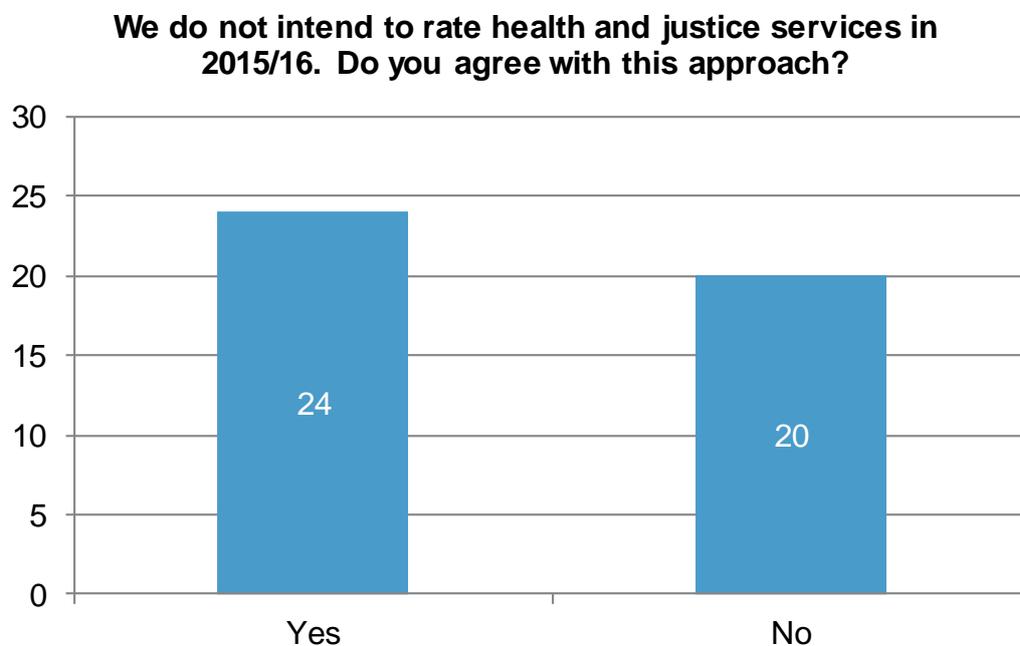
We agree that it is important to have a consistent framework to assess care in secure settings and to make sure that the KLOEs, prompts and characteristics are appropriate to those settings. Following the consultation we have made some changes to the assessment framework and have adjusted some of the prompts. The consultation feedback will also be taken into account in the detailed guidance that we develop for inspection teams.

Consultation question 3

We do not intend to rate health and justice services in 2015/16. Do you agree with this approach?

What you said

We received 44 responses to this question. A small majority agreed that we should not rate health and justice services in 2015/16.



Furthermore, 57% of the public online community respondents agreed with the proposal to not rate health and justice services in 2015/16.

Additional comments included:

- Yes – a rating system wouldn't offer significant value as prisoners are unable to choose the health care provider.
- No – a rating system would offer a baseline for future health improvements.
- No – a poor rating would help to ensure that steps are taken to quickly improve the service.

Our response

The government introduced [new legislation](#) in 2014 to enable CQC to rate most of the providers it regulates. However, it did not include certain services including those provided in secure settings. Although we have introduced ratings as an important element of our new approach to inspection and regulation of other sectors, we do not intend to rate secure settings at this time but we may be granted the power to rate in the future. The consultation responses will be taken into account if we move towards a position where we are able to rate in the future.

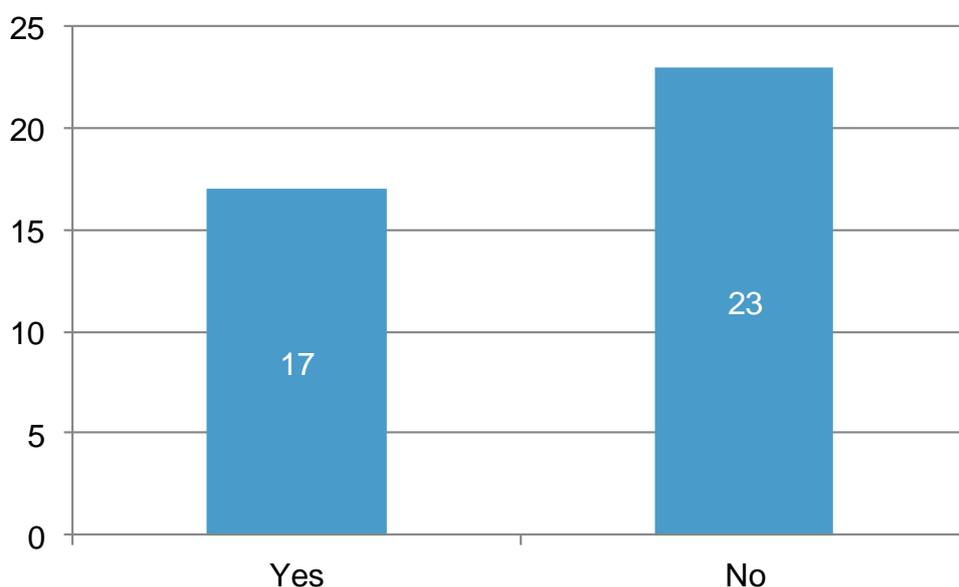
Consultation question 4

- Should we consider a single rating for health and social care within a secure setting?
- Should this be a joint rating with HMIP or a CQC rating?

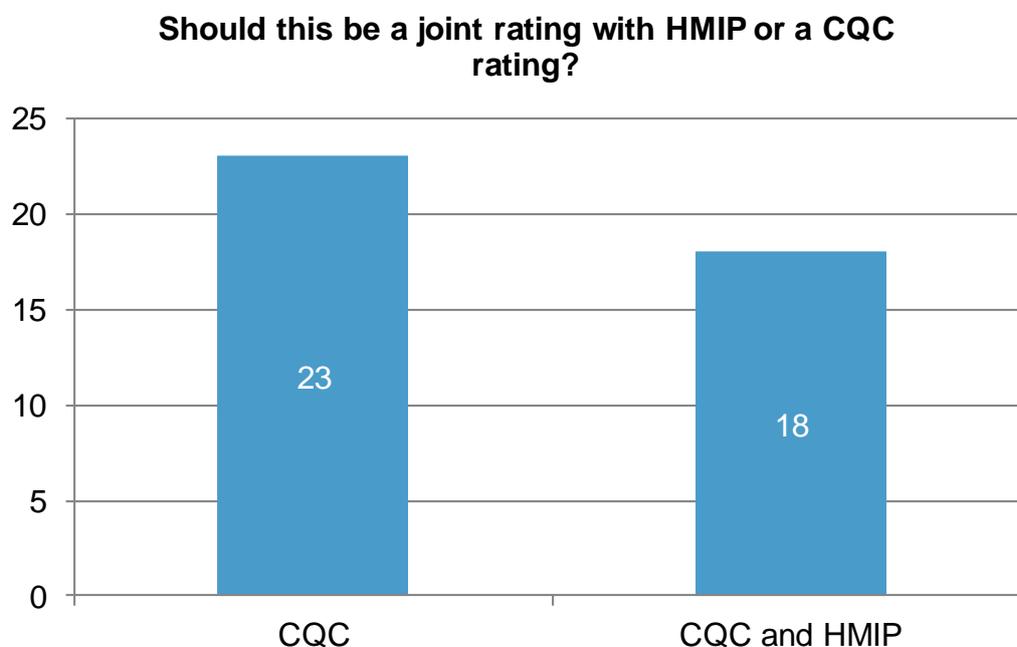
What you said

We received 42 responses to this question. The majority said we should not consider a single rating for health and social care within a secure setting. Two respondents neither agreed nor disagreed, both suggesting that it would be better to provide ratings for each provider as well as an overall score for the establishment.

Should we consider a single rating for health and social care within a secure setting?



Of the 42 responses we received to the second part of the question, 23 said that if we were to rate services, we should give a CQC rating rather than a joint rating with HMIP. One respondent neither agreed nor disagreed.



Our response

We will take this feedback into account should CQC be granted the powers to rate secure settings in the future. We will also consult further on the scope and detail of the ratings methodology.

Consultation question 5

Do you agree with our approach to concerns, complaints and whistleblowers?

What you said

We received 45 responses to this question. All respondents, except two, agree with our approach to concerns, complaints and whistleblowers.

In addition, 95% of the public online community respondents agree with the approach.

Further comments included:

- Whistleblowing should be looked at alongside other channels for staff to raise issues – for example, DATIX, governance meetings, and supervision.
- Confidentiality should be looked at to ensure concerns, complaints and whistleblowing can be made without fear of repercussions.

Our response

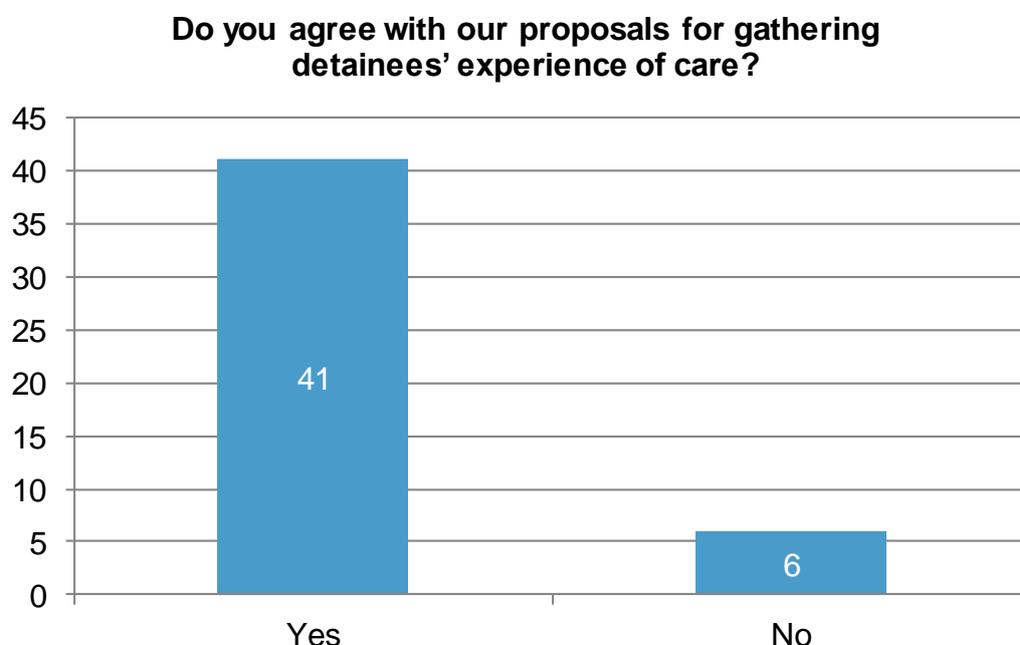
We will ensure that concerns raised by detainees, those close to them, and staff working in services help us to understand the quality of care provided in secure settings. In addition to whistleblowing, we will also look at other channels for staff to raise concerns and will ensure that concerns are treated confidentially.

Consultation question 6

- Do you agree with our proposals for gathering detainees' experience of care?
- Are there any other ways we could gather this information?

What you said

We received 47 responses to this question. The majority agree with our proposals for gathering detainees' experience of care.



In addition, 92% of the public community respondents also agreed with our proposal.

A number of responders highlighted the issue of literacy problems amongst prisoners and in immigration removal centres. They suggested face-to-face information gathering rather than asking for forms to be completed.

Our response

At CQC, we are committed to giving all users of services the opportunity to speak to us directly. Feedback from users of services forms an important part of all inspections. Every piece of information we receive about experiences of care is looked at by our inspectors. We have taken on board the feedback through this consultation and have adapted the way in which we intend to ensure we are accessible to all detainees and their families so they can feed back to us about care, confidentially and through a variety of suitable means.

A key principle of our approach is to seek out and listen to the experiences of detainees and those close to them, including the views of people who are in vulnerable circumstances or who are less likely to be heard. We have made some changes to the provider handbook to include some of the suggestions received during the consultation, for example, attending prisoner forums, encouraging listeners and recovery champions to gather feedback to inform inspections and attending visitor centres for discussions with families of detainees. The consultation feedback will also be taken into account in the detailed guidance that we develop for inspection teams.

Consultation question 7

- Do you agree with our approaches to working with national and local organisations?
- Is there anything else that we should be doing?

What you said

We received 47 responses to this question. All but two responders agreed with our approach of working with national and local organisations.

We also received suggestions to work with local councillors, the National College of Social Work and the Association of Directors of Adult Social Services.

In addition, we received a number of suggestions of other working partnerships.

- Children and Young People's Advocacy Service in YOIs.
- Independent Monitoring Board.
- Local Healthwatch where they support prisoner engagement programs.
- General Pharmaceutical Council (GPhC).
- Secure training centers and secure children's homes.
- Refugee support groups.
- Local faith groups.

Our response

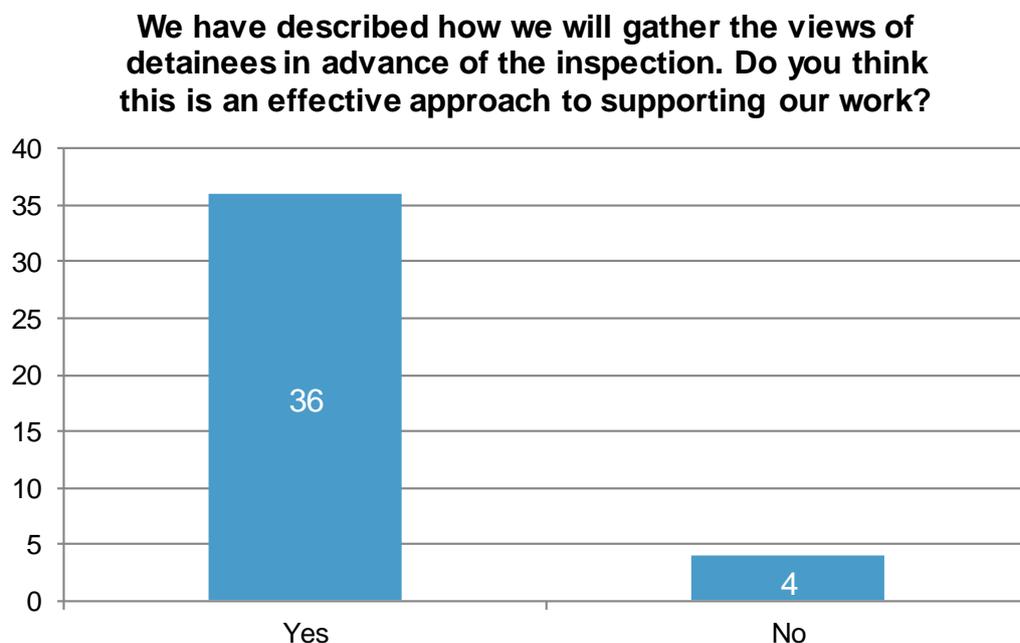
We will work closely with oversight bodies and commissioners, national, professional and staff bodies, patient and public representatives and organisations that manage health and care risks. We have made some changes to the provider handbook to include some of the suggestions received during the consultation. The consultation feedback will also be taken into account in the detailed guidance that we develop for inspection teams.

Consultation question 8

We have described how we will gather the views of detainees in advance of the inspection. Do you think this is an effective approach to supporting our work?

What you said

We received 40 responses to this question. The majority agreed that our proposed approach to gathering the views of detainees would be effective in supporting our work.



Our response

We will continue to seek the views of detainees in advance of the inspection to improve our understanding of the issues that are of most concern to people.

Consultation question 9

We have described how we will gather information and evidence while on site at the secure setting. Do you think this is an effective approach to supporting our work?

What you said

We received 39 responses to this question. All but three responders agreed that our proposed approach to gathering information and evidence would be effective in supporting our work.

Our response

We will gather information and evidence while on site through the range of methods described in the provider handbook.

Further information

To read the full Quality Health report for this consultation, including the full additional feedback, please visit: www.cqc.org.uk/consultation-securesettings.

For details of, and to take part in, other CQC consultations, please visit: www.cqc.org.uk/consultations.

Appendix

Organisations that submitted written responses

National charities

- Clinks
- Howard League for Penal Reform
- INQUEST
- Medical Justice
- Mental Health Foundation
- National AIDS Trust
- National Family Carer Network
- Prisoner's Advice Service
- Prison Reform Trust

Professional representatives

- Association of Directors of Adult Social Care Services (ADASS)
- Immigration Law Practitioners' Association (ILPA)
- Royal College of Nursing (RCN)

Health and social care providers and bodies

- NHS England
- Oxford Health NHS Trust
- Public Health England

Strategic partners

- Prisons and Probation Ombudsman
- Youth Justice Board for England and Wales

Other groups

- Healthwatch and Public Involvement Association (HAPIA)
- Healthwatch Peterborough
- Oxford Keep Our NHS Public and Campaign to Close Campsfield House IRC (and other stakeholders)
- Royal Association of Deaf people (RAD)