

<b>MEETING</b>	<b>PUBLIC BOARD MEETING 18 July 2018</b>
<b>Agenda item Paper Number</b>	<b>4 CM/07/18/04</b>
<b>Item title</b>	<b>Executive Team's report to the Board</b>
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**PURPOSE OF PAPER:**

This is a paper for the Board to **note**.

**Introduction**

The report this month provides an update on the following matters:

1. Performance Report: May 2018
2. Local Systems Reviews: publication and response to national report
3. Annual report and accounts
4. Adult social care Green Paper
5. Report of the Gosport Independent Panel
6. Forthcoming publication: Radiology report
7. CQC's inspections of Defence Medical Services
8. Health and Social Care Select Committee inquiry into prisons health and social care
9. Recent publication: The state of care in urgent primary care services
10. Recent publication: Driving improvement: case studies from 10 GP practices
11. Forthcoming publication: Controlled drugs annual report
12. Proposed amendments to the Mental Capacity Act's Deprivation of Liberty Safeguards (DoLS)

**Acting Chief Executive's report**
**1. Performance Report: May 2018**

The attached appendix is a summary of the key operational indicators that are tracked monthly. The Board is reminded that this monthly report is a snapshot of performance across our core business plan performance indicators. Strategic Measures, Risks and Business Plan updates are available through the quarterly

reports to the Board. Please note the change to the performance appendix, which we have developed in response to Board feedback to bring together key indicators to help make better sense of our performance story. We are working with Board members to make additional improvements to our reporting.

#### On Plan Performance

We are on plan against our staffing and National Customer Service Centre responsiveness indicators. Primary Medical Services (PMS) has undertaken 605 inspections, achieving its timeliness target overall.

#### Under Plan Performance

Year to date, registration assessment timeliness stands at 67% for New applications, an improvement from 65% in April, against a target of 80%, and 89% for applications for Variations or Cancellations, against a target of 90%, an improvement from 87% in April. Performance continues to be impacted by technology problems alongside a decrease in capacity in the Registration team against an increase in workload, as the number of applications continues to increase.

In May, our target for Safeguarding Alerts referred to a Local Authority was met (97% against a target of 95%). Year to date performance is slightly under KPI at 94%. For other Safeguarding Alerts and Concerns that require a mandatory action, performance increased to 89% in May from 86% in April against a target of 95%. The Safeguarding Committee is assured that Inspectors are responding appropriately to safeguarding information and taking action at the right time, but there are issues with recording those actions on our systems which the Committee will seek to address.

Year to date there have been 1,709 Adult Social Care (ASC) inspections. Of these 94% of 723 inspections of Good or Outstanding services were inspected within agreed timescales, against a target of 80%; 57% of 581 Requires Improvement or Inadequate services were inspected within agreed timescales against a target of 90%; and 32% of 349 first inspections undertaken were within the agreed 12 months, against a target of 80%. Following a 'deep dive' review of re-inspections by the ASC Senior Leadership Team, we have assurance that ASC inspections are being prioritised based on risk. Where we have inspected Good services early to respond to areas of concern, we are finding a significant proportion deteriorate in rating compared to those that are undertaken late, where a greater proportion stay the same rating or improve rating. Recruitment and therefore capacity is increasing, with current actual strength at 89%. However, ASC is carrying a backlog of inspections that are being worked through as capacity increases, which will continue to affect timeliness performance.

In the first two months of the year, the Hospitals team has undertaken 453 units of inspection, 96% of the expected average of 235 per month against a target of 100%.

Inspection directorates continue to experience significant problems with technology in the last few months that have affected their performance. We are monitoring the time lost to these issues and the Digital team is taking interim steps to minimise the impact of systems downtime while a longer-term technical solution is developed.

#### Executive Team (ET) Performance Focus – Board Update

At its June performance meeting, the ET agreed to undertake a monthly cycle of "deep-dives" on CQC's performance priorities: report publication, consistency,

registration, enforcement and managing change and improvement in CQC. At its July meeting, ET reviewed our report publication performance, discussing further analysis of performance and the directorate improvements to timeliness and quality of our report-writing activity and supporting actions.

The first two months of 2018/19 has seen underperformance in all three sectors with overall CQC performance at 80% against a target of 90% (pages 16, 19 and 22 of the appendix provide the sector breakdowns). If sustained, this underperformance would result in an overall deterioration in our performance trajectory compared with 2017/18, where CQC overall performance was 81%. However, while there has been significant variation in the number of days to publish reports, overall this rate of variation is reducing. We can also see that there has been a significant improvement in the backlog of reports to be published since the end of the Comprehensive Programme. The exception to this is in Hospitals, where we have seen an increase in the backlog of reports in line with the increase in the directorate's activity since the 'Next Phase'.

Each directorate has actions in place to improve the quality and timeliness of their reports. The majority of actions from our 2017 external consultant's analysis and recommendations are now complete and we will now be undertaking a more fundamental review of the end-to-end process and developing appropriate training.

All of this improvement activity is being co-ordinated by a newly-established Quality Improvement Steering Group with Deputy Chief Inspector leadership and ET representation from Ted Baker, and is supported by the Performance and Improvement teams in Strategy & Intelligence. The group will co-ordinate action, mobilise appropriate resources, and monitor the trajectory of improvement efforts through key timeliness and inventory measures.

## **2. Local Systems Reviews: publication and response to national report**

The Board will be aware that in July 2017 the Secretaries of State for Health and Social Care and Housing, Communities and Local Government asked CQC to undertake a programme of targeted reviews in 20 local authority areas. The programme has been completed within the specified time frame and a national report of the review findings, *Breaking Barriers*, was published on 3 July 2018.

The key findings of the report were:

- People experience the best care when people and organisations work together to overcome a fragmented system
- Dedicated staff regularly going beyond the call of duty
- There were examples of good practice in every local system we looked at
- Where local leaders share a clear vision, it provides a shared purpose for people and organisations across the local health and social care system
- However in a fragmented health and social care system there are barriers to collaboration at a local and national level.

These barriers included:

- Funding: Health and social care organisations are limited in how far they can pool resources and use their budgets flexibly across prevention, social care and healthcare

- Managing performance: Organisations are held to account for their own performance, not the performance of the system as a whole
- Workforce: Services do not always have the right staff, in the right place, at the right time – the health workforce and social care workforce are seen as separate entities
- Oversight: Regulation usually looks at quality of care in individual providers, rather than across a system as a whole
- Sharing information: A misunderstanding of information governance rules sometimes leads to information not being shared between health and social care services when it was permitted to do so. Digital Interoperability presents different challenges in different systems – even those using the same IT systems struggle to share information.

In light of the findings we made the following four recommendations to local and national leaders including government:

1. An agreed joint plan that sets out how older people are to be supported and helped which in turn, guides joint commissioning decisions over a multi-year period
2. A single framework for measuring the performance of how agencies collectively deliver improved outcomes for older people
3. The development of joint workforce plans with more flexible and collaborative approaches to staff recruitment, retention and development
4. New legislation to allow CQC to regulate systems and hold them to account for how they work together to support and care for older people.

The report was launched by Sir David Behan on July 3 at the LGA conference and was very positively received both in national media and trade press and by our partners in the health and social care sector.

### **3. Annual report and accounts**

Our 2017/18 annual report and accounts were laid before parliament on 12 July 2018.

### **Chief Inspector of Adult Social Care's report**

#### **4. Adult social care Green Paper**

The publication of the government's forthcoming Green Paper on adult social care has been postponed to the autumn.

The additional time will allow government to further develop their policy proposals. We will seek to work closely with government on issues relating to the quality and safety of care and the need for collaboration across health and social care to ensure people experience person-centred co-ordinated care.

The new timing for the publication of the Green Paper will allow the government to align these proposals with work on the NHS ten-year plan. Our work on the local systems reviews demonstrated the importance of addressing the issues facing health and social care together to ensure that there is a coherent strategy to meet the needs of local communities.

## **Chief Inspector of Hospital's report**

### **5. Report of the Gosport Independent Panel**

On 20 June 2018 the Gosport Independent Panel, chaired by Rt Reverend James Jones KBE, issued its report into care at Gosport War Memorial Hospital between 1989 and 2000. The panel reported that the lives of over 450 people were shortened as a direct result of the approach used in some wards to the prescribing and administering opioids and other drugs, and that, while records were missing, probably at least another 200 patients were similarly affected.

The Panel found that there was a regime of prescribing and administering a hazardous combination of medication not clinically indicated or justified, with patients and relatives powerless in their relationship with professional staff. They concluded that this reflected a disregard for human life and a culture of shortening of lives. When staff raised concerns about this practice there was failure to effectively investigate or take action. When relatives complained they were let down repeatedly. Over many years there was a failure by a series of individuals and institutions, including regulators, to investigate or act appropriately.

Since the period covered by the report there have been major changes in clinical governance and regulation including the redevelopment of CQC approach to inspections, the role of the national and local Freedom to Speak Up Guardians to support staff who wish to raise concerns and to way CQC works with other national organisations to share and act on information of concern. However, there are a series of issues that are relevant to the CQC's current work. These include the use of guidance in the prescribing of opioids, patient information and consent for treatment, monitoring and investigation of deaths, investigation of staff and relatives' concerns about care and the regulatory response when such concerns are raised. The implications of the Panel's finding for our regulation of hospital and primary care services are being reviewed and a full update will be brought to a forthcoming board meeting.

### **6. Forthcoming publication: Radiology report**

On 19 July we will publish a report bringing together the findings from our review of radiology reporting across NHS trusts in England. It is based on an analysis of data provided to CQC by 151 NHS acute trusts and 19 NHS community trusts regarding the timeliness and governance of their radiology reporting between August 2017 and October 2017. The report will describe the key themes that have emerged from this analysis and highlight examples of good practice. It will also make recommendations aimed at improving radiology services for patients.

## **Chief Inspector of Primary Medical Services' report**

### **7. CQC's inspections of Defence Medical Services**

The Surgeon General of the UK's Defence Medical Services (DMS) invited CQC to inspect the DMS's healthcare and medical operational capability. In 2017/18, CQC carried out comprehensive inspections of 35 medical facilities, 24 dentists, two regional rehabilitation units and two defence community mental health services. This has allowed us to form an initial view of the quality of care provided by DMS.

We have highlighted some innovative practice in our inspection reports to encourage others to learn from it, to be inspired by it and to adapt what is relevant to use in their own improvement journey. We also recognise that there are pockets of poor care and that this affects both patients and healthcare professionals in a negative way.

Our inspections are intended to highlight both good practice and problems with the quality of care, and to ensure that these are addressed – not only for the benefit of patients, but to improve and support the profession.

Where we found concerns, we have commenced a follow-up action plan to re-inspect and ensure that the necessary improvements have been delivered. In extreme cases, where we found poor and unsafe practice that put patients at risk, action was taken by DMS to provide urgent support to the service, and in one case, to close the practice.

The Surgeon General has extended his invitation, requesting that CQC inspects further medical facilities, community mental health facilities and regional rehabilitation units in 2018/19. CQC remains committed to ensuring that armed forces personnel and their families have access to the same high-quality care as the rest of society.

## **8. Health and Social Care Select Committee Inquiry into prisons health and social care**

Steve Field, Chief Inspector of General Practice, and Jan Fooks-Bale, Inspection Manager for Health and Justice, gave evidence to the Health and Social Care Select Committee on Tuesday 3 July as part of their inquiry into prison health and social care. They discussed a wide range of issues relating to the current state of health and social care in prisons, including: why CQC is unable to carry out unannounced visits of prisons; commissioning contracting, and whether CQC should have a role in assessing the quality of commissioning; CQC's ability to rate prison healthcare and the complexities of providing ratings where there are multiple bodies involved; driving improvement in prison healthcare; what activity CQC is able to carry out outside the inspection schedule agreed with HMIP; and the impact of substance misuse, particularly psychoactive substances.

The Committee will hold a further evidence session on 11 July and will publish a report of their inquiry later in the year.

## **9. Recent publication: The state of care in urgent primary care services**

On 22 June we published *The state of care in urgent primary care services*. The report presented findings from our regulation of urgent care providers, which started in 2014. The report showed that most of these services are providing good care despite workforce and commissioning pressures. Also highlighted was the importance of effective urgent primary care in easing pressures on other services in the system. We used the report to highlight the need for commissioning decisions to take this into account.

We worked closely with our expert advisory group on the drafting of the report, as well as engagement with key public representative organisations such as Mind and Age UK.

**10. Recent publication: Driving improvement: case studies from 10 GP practices**

At NHS Confederation Conference on 13 June we published *Driving improvement: case studies from 10 GP practices*, the third in the series of publications looking at how providers have achieved significant improvements in ratings. By means of interviews with managers and staff at GP practices, local partners and patient representatives, we reported on the actions taken to implement improvements. The purpose is to encourage improvement in other practices and to highlight good practice. We engaged positively with a number of stakeholders and the publication was well received in the media and by organisations such as the RCGP.

**11. Forthcoming publication: Controlled drugs annual report**

This annual update is primarily for other regulatory bodies, professionals, commissioners, and NHS England controlled drugs accountable officers. It reports on what CQC found during 2017 through our oversight of the safer management of controlled drugs in England, from our responsibility under the 2013 Regulations. It provides recommendations to strengthen the current arrangement, as well as data on prescribing of controlled drugs in NHS and private primary care in 2017, to monitor trends. Data is taken from NHS Business Services Authority.

**Chief Operating Officer's report**

Nil report.

**Executive Director of Strategy and Intelligence's report**

**12. Proposed amendments to the Mental Capacity Act's Deprivation of Liberty Safeguards (DoLS)**

The Department of Health and Social Care (DHSC) introduced the [Mental Capacity \(Amendment\) Bill](#) in the House of Lords on July 3<sup>rd</sup> 2018, with a view to replacing the existing DoLS system with a new system based on the Law Commission's recommendations for 'Liberty Protection Safeguards'. There is widespread agreement of a prompt need for this change.

The Bill in its current form makes a number of procedural changes suggested by the Law Commission review, accepting the majority of the recommendations.

The interface between the Mental Health Act and Mental Capacity Act is a known area of difficulty, and there is an opportunity to synchronise reform of both Acts to ensure that the two pieces of legislation work together in a clearer, more complementary manner rather than the current, sometimes confusing position where there is the potential for people to fall through the gap between the two pieces of legislation.

As we set out in the [written evidence](#) we submitted to the parliamentary Joint Committee on Human Rights earlier this year, we are concerned that if the Liberty Protection Safeguards are implemented as they are, with narrower criteria than the existing Deprivation of Liberty Safeguards regime, there may be a resultant rise in the number of detentions under the Mental Health Act. This of course sits in contrast to the Mental Health Act review aim in seeking to reduce the number of detentions. Further work on how the two pieces of legislation work together would be beneficial.

CQC has developed an impact assessment in 2017 which will be reviewed as we continue to work closely with DHSC and system partners to understand and agree our role in oversight of the proposed new scheme - for example in relation to an enhanced registered manager role in the operation of the scheme, our role in monitoring domestic settings, and in CQC's statutory notification system. A second reading is due to take place in the House of Lords on the 16<sup>th</sup> July 2018 which could lead to change.

**Appendix:**

1. Performance Report: May 2018

The Board is asked to **note** these items.

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**Date:** 18 July 2018