MEETING	PUBLIC BOARD MEETING 17 July 2019
Agenda Item Paper Number	4 CM/07/19/04
Agenda Title	Executive Team report to the Board
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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 2019
2. Recent publication: Oral health care in care homes report
3. Upcoming publication: Supporting people's sexuality and sexual safety in adult social care
4. Whorlton Hall
5. Recent publication: Mental Health Act Code of Practice report
6. Recent publication: Effective staffing report
7. NHSE consultation on Digital-First Primary Care
8. Recent publication: Defence Medical Services Annual Report
9. Upcoming publication: Annual Report on Controlled Drugs
10. Experts by Experience: update
11. General Data Protection Regulation (GDPR) one year on
12. BEIS white paper: Regulation for the Fourth Industrial Revolution
13. Recent publication: #DeclareYourCare campaign – BME
14. Upcoming publication: Annual Report and Accounts 2018-19
15. Upcoming publication: Driving Improvement through technology
16. Information and cyber security risk

Chief Executive's report

1. Performance report: May 2019

Summary

This is the second month of reporting against the 2019/20 business plan indicators. It is also the second month using *powerbi* for the annex report, which has been shared with Board members (a pdf version is included with this report at annex 1).

Overview of Performance for the year to date

Public and Providers

a. Overall registration performance in May was good. Timeliness to process new and cancellation applications has continued to improve. Processing variation applications fell slightly in May but remains over target year to date. Performance in timeliness of refusals however has continued to decline from 37% last year and 32% in April to 16% in May, these are applications where we are refusing registration and are often complex.

b. In May, the Primary Medical Services (PMS) and Hospitals directorates continued to achieve over 90% of inspections undertaken in line with our commitments. Both directorates performed well against this indicator in 2018/19 although sustaining this performance will be a challenge, as 2020 is characterised by a significant increase in demand.

c. The Adult Social Care (ASC) directorate is meeting re-inspection targets for locations rated Inadequate and Requires Improvement, undertaking at least 90% of re-inspections within KPI. Return inspections to locations rated Good fell from 85% in April to 77% in May, however the volume of services due in May increased when compared to April. Locations rated as Outstanding are below plan at 81% but closely monitored.

d. In May, safeguarding alerts stood at 99% against a target of 95%, maintaining a positive trend from Q4 2018/19. Concerns requiring mandatory action within 5 days has continued to improve with 90% meeting the KPI in May, bringing the yearly performance up to 89%. A cross-directorate workshop was held in early July to review the Safeguarding and Whistleblowing process and related indicators. Proposals for improvement of the process and how we measure success will be reported to the Executive Team and Board.

e. 91% of ASC and PMS reports were published within our commitments. Hospitals had 52% of reports published on target. The Hospitals team is reviewing the information to assess issues, although it is reported that inspectors have been responding to information of concern as a consequence of the scrutiny on Whorlton Hall and this has had an impact on report timeliness. May had the highest percentage of inspections undertaken based on information of concern at 19% - significantly higher than the standard of around 7%.

f. Of those enforcement actions that were finalised in May 58% were considered to have a successful outcome (a ruling in favour of CQC, fine or improvements by the provider for example). The year to date figure is showing 71% have a successful outcome.

g. We aim to undertake urgent enforcement action in 70% of cases within 3 days. This measure continues to be under plan but has improved from 20% in April to 33% in May. Analysis of the urgent action taking more than 3 days shows in May the majority were within either 3-10 days, or 11-20 days, which is a noticeable improvement from the previous 12 months.

Resources

h. Sickness levels remains low at 3.9% and turnover is currently 10.5% which is within the target range of 10-12%

i. Time lost to IT issues and the related costs has continued to reduce, however this is expected to increase notably in June due to a supplier IT issue that affected most office workers.

Finance Update

j. CQC revenue budget is over spent at the end of May by £0.6m and is projecting a full year deficit of £1.7m.

k. The pay budget remains a concern across most directorates in CQC and is subject to close focus from ET. Non-pay budgets are also a key focus, however forecast overspends are limited to Hospitals and the Regulatory, Customer and Corporate Operations directorate directorates.

l. No variances are assumed on income at this stage.

m. Capital expenditure to date is £1.5m, against a full year budget of £15m.

Appendix - Annex 1: Performance Report

Chief Inspector of Adult Social Care's report

2. Recent publication: *Smiling Matters* - Oral health care in care homes

This report looked at the extent to which dental services are available to those living in residential settings. It included recommendations on how the dental and adult social care sectors, as well as regulators and commissioners, can work better together to improve oral health in care homes. (Link: https://www.cqc.org.uk/publications/major-report/smiling-matters-oral-health-care-care-homes).

3. Upcoming publication: Supporting people's sexuality and sexual safety in adult social care

This report will aim to raise awareness of issues of sexuality and sexual safety in adult social care, as an important part of supporting people to lead as full lives as possible. The report will use CQC data from notifications of sexual incidents or alleged abuse, as well as findings from engagement with key stakeholders, to present learning and recommendations for the sector.

Chief Inspector of Hospital's report

4. Whorlton Hall

Work is underway in relation to the two independent reviews and the terms of reference have been published. Internally, we have established a coordination group to oversee the response to Whorlton Hall and the action being taken. Early work already undertaken has included a briefing for inspection teams, shared with colleagues in June, which makes suggestions on how to identify warning signs and indicators of unhealthy cultures in learning disability hospitals and other settings.

5. Recent publication: Mental Health Act Code of Practice

In this report, we analyse the extent to which the revised Mental Health Act (MHA) Code of Practice met its objectives following its publication in April 2015. (Link: https://www.cqc.org.uk/sites/default/files/20190625_mhacop-report.pdf).

6. Recent publication: Effective staffing

We have used a range of case studies showcasing different approaches to staffing and improvement in this area without relying on deploying staff from other wards. (Link: https://www.cqc.org.uk/news/stories/new-web-resource-effective-staffing)

Chief Inspector of Primary Medical Services' report

7. NHS England (NHSE) consultation on Digital-First Primary Care

On 28 June, NHSE published a policy consultation on patient registration, funding and contracting rules associated with a digital-first primary care system.

We have seen a significant increase in the adoption of online technology in general practice and this has been factored into our assessment framework for general practice building on our experience of regulating independent sector online providers.

We continue to work closely with NHSE and other national stakeholders to share our experience, provide input into standard setting and specifications and share our intelligence on any impact on the quality of care, positive or negative, that we see on our inspections. We will be responding to the consultation.

8. Recent publication: Defence Medical Services Annual Report

CQC was commissioned by the Surgeon General (Defence Medical Services) to carry out a programme of inspections of primary care services for military personnel and their families starting in 2017/18. This is a report of the second year of the programme (2018/19) and shows performance over that time. This report is published alongside the inspection reports on the CQC website. (Link: https://www.cqc.org.uk/sites/default/files/20190618_dms_annual_report_yr2_201819.pdf).

9. Upcoming publication: Annual Report on Controlled Drugs

Under the Controlled Drugs (Supervision of Management and Use) Regulations 2013, CQC has national oversight of the arrangements for the safe management and use of controlled drugs in England. The 2018 report updates on our scrutiny of how regulators and other agencies are working together through the Controlled Drugs National Group and Cross-Border Group, and highlights the key issues raised through NHS England Controlled Drug Accountable Officers and Local Area Networks.

Chief Operating Officer's report
Nil report.

Chief Digital Officer's report
Nil report.

Executive Director of Strategy and Intelligence's report

10. **Experts by Experience: update**

The current Experts by Experience contracts are performing well with both suppliers meeting or exceeding their KPIs and fulfilling all requests for Experts by Experience to support inspections and co-production.

The re-procurement of the contract is on track to ensure new contracts are in place from April 2020, in line with the cease of current contracts (held by Remploy and Choice Support). We have been engaging with the market since April, and have attracted strong interest.

11. **General Data Protection Regulation (GDPR) one year on**

25 May 2019 marked the first anniversary of the introduction of new data protection legislation - the General Data Protection Regulation (GDPR) and the Data Protection Act 2018. Significant work planned and undertaken by CQC in advance of, and since, the legislation came into force has secured a strong level of compliance and ensured that the changes did not result in increased risk to CQC. Where issues have arisen (such as resource issues arising from increased numbers of subject access requests) these have been identified and addressed. Colleagues are now working with the new legislation as 'business as usual'. We recognise the need for continuous monitoring and development to achieve our goal of being an exemplar of good practice and this work is monitored by the Information Governance Group.

Further information is supplied in *Annex 2*.

12. **BEIS white paper: [Regulation for the Fourth Industrial Revolution](#)**

The white paper sets out policy proposals to strengthen the UK's regulatory approach to AI and similar technological developments across all industries.

Further information is included at Annex 3.

13. **#DeclareYourCare campaign – BME**

On 12 June, as part of our year-long #DeclareYourCare campaign, we highlighted how people from a BME background are less likely than those from a non-BME background to raise concerns about the standard of care they receive, particularly in relation to mental health. We want to encourage more people from a BME background to share their experiences of care with us. We are working in partnership with the Race Equality Foundation to develop video case studies of people sharing their stories. (Link: https://www.cqc.org.uk/help-advice/your-stories/declare-your-care-people-black-ethnic-minority-communities).

14. **Upcoming publication: Annual Report and Accounts 2018-19**

Covering 1 April 2018 to 31 March 2019, this annual report and accounts is our tenth since CQC was formed in 2009. It is a legal requirement under the Health and Social Care Act 2008, demonstrating that we are fulfilling our role as a regulator and delivering value for money. It is also an important opportunity for us to reflect and

report back on our achievements and challenges as well as a brief forward look to the coming year.

15. Upcoming publication: Driving Improvement through Technology

This is a collection of case studies illustrating the use of technology in health and care services. This will inform discussions about the kind of questions or evidence inspectors might need to take a view on the impact and effectiveness of technology.

16. Information and cyber security risk

There are no significant incidents to report.

Attachments:

Annex 1 - Performance Report: May 2019 (*separate pdf document*);

Annex 2 - General Data Protection Regulation (GDPR) one year on;

Annex 3 - BEIS white paper: Regulation for the Fourth Industrial Revolution.

ANNEX 2

ANNEX 2 - General Data Protection Regulation (GDPR) one year on

1. CQC engaged in a significant programme of work in advance of the GDPR, and the new Data Protection Act 2018 (DPA18), coming into force in May 2018. That work has continued ever since to further develop and strengthen compliance.

2. Reviews conducted by Health Group Internal Audit Services (HGIAS) identified that CQC had robust implementation plans and that these were effectively enacted

3. GDPR/DPA18 compliance is now, and has for some time, been business as usual within CQC.

4. Many of the changes introduced under this new data protection legislation had the effect of placing previously recognised good practice onto a statutory footing. CQC's extensive information governance improvement work over many years therefore placed CQC in a good position to secure a strong level of compliance. For example, our extensive and mature Information Asset Register has been developed over a number of years with strong engagement with colleagues across CQC. This was recognised as good practice and provided a solid basis to meet the 'records of processing activities' requirement under GDPR.

5. GDPR has had the effect of strengthening data subjects' rights. CQC's strong statutory basis for processing data has meant that the impact of these rights (such as the "right to be forgotten") have been relatively limited.

6. GDPR increased the reporting requirements for information security breaches, requiring any personal data security breach to be reported to the Information Commissioner's Office (ICO) unless it carries no risk to the rights and freedoms of data subjects. Despite this low bar for requiring breach reporting, CQC were only required to report one incident to the ICO in 2018-19. That incident involved an email containing personal information being sent to an incorrect recipient, the incident resulted in no further action from the ICO.

7. As expected, the publicity and raised awareness around the new legislation did result in a sharp rise in the number of subject access requests (SARs) received by CQC. A SAR is a request by a person to receive a copy of their personal data held by CQC. What was expected to be a spike in SARs has actually plateaued and resulted in a significantly increased workload for the Information Access Team. We received 303 SARs in 2018-19 – more than 50% higher than any previous year. We responded to 286 (94.4%) of these within statutory deadline but did experience a small backlog of very overdue SARs. Additional recruitment to the Information Access Team has assisted in clearing these.

8. CQC documents and contracts have been updated and we are satisfied that our external and internal policies and guidance are compliant with the current data protection legislation.

9. We have ongoing work for further improvement. In particular to strengthen our assurance in our supply chain and where CQC data is processed on our behalf by third parties.

10. We anticipate that the ongoing delivery of the Digital strategy will further strengthen our GDPR compliance through improved records of our processing and strengthened monitoring capabilities.

11. CQC is a member of the DHSC 'Data Protection Officer' network, through which we share emerging best practice and benchmarking with the Department and other Arms-length bodies.

12. The Information Governance Group is satisfied that CQC's overall information risk has not risen due to GDPR, thanks to the work taken to secure compliance, but continues to monitor our ongoing compliance.

Annex 3

Annex 3 - BEIS white paper: [Regulation for the Fourth Industrial Revolution](#)

The white paper sets out policy proposals to strengthen the UK's regulatory approach to AI and similar technological developments across all industries.

Implications for the CQC:

BEIS is signalling intent to take a more active role in shaping regulation to support innovation, and some of the paper focused on health and ageing. How this evolves will depend on the views of the new Cabinet, particularly the new Secretary of State for Business Energy and Industrial Strategy and their ministerial team.

Policy proposals:

- BEIS will establish a Regulatory Horizons Council. This will work to identify the implications of tech innovation and advise the government on regulatory reform. It will have relationships to the Centre for Data Ethics, a Ministerial Working Group on Future Regulation, the Better Regulation Executive and the Regulatory Policy Committee.

- BEIS will consult on Regulation Navigator, an advice service for innovators. They will seek to un-earth inappropriate constraints on innovators between regulators through this, and are asking whether to take further action in this area. They will also invest further in more specialist regulatory advice services through the Regulator's Pioneer Fund.

- BEIS will seek to develop ambitious regulatory agreements as part of trade deals and publish policy papers later in 2019 describing how to modernise consumer and competition regulation.

- The Better Regulation Executive will provide support to policy makers and regulators on public engagement techniques around the risks and benefits of technological innovation. Other support to regulators outlined includes the Regulators Innovation Forum to support regulators to experiment, and BEIS are facilitating links internationally.

Wider context:

In order to keep pace with disruptive technological innovation, UK regulators need to move away from prescriptive legislation to regulating for outcomes, using a broader range of regulatory instruments (such as guidance and codes) and legislative frameworks that allow for adaptation and experimentation. PM's Council for Science and Technology & BEIS have identified 6 challenges for regulators to address these issues, and the White Paper's proposals are framed as an answer to these challenges:

- o **"Facing the future"** Reforming regulation rapidly in response to tech innovation;

- o **"Focusing on outcomes"** Reform regulatory system so that it is flexible and outcome focused;

o **"Supporting experimentation"** Enable greater experimentation, testing and trialling of innovations under regulatory supervision;

o **"Improving access"** Support innovators to navigate the regulatory landscape and comply with regulation;

o **"Build dialogue"** with society and industry on how technological innovation should be regulated;

o "**Leading the world**" Work with partners across the globe to reduce regulatory barriers to trade in innovative products and services.