

Meeting	<b>PUBLIC BOARD MEETING</b>
Date	<b>15 October 2014</b>
Agenda item Paper Number	4 CM/10/14/04
Item title	<b>Chief Executive's report to the Board</b>
Sponsor	<b>Chief Executive</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. Values
2. Handbooks
3. Duty of candour
4. Fit and proper person requirement
5. Review of ratings
6. Update on recruitment
7. Update on Staff Development and the Academy
8. GP Intelligent Monitoring
9. Scheme of Delegation
10. State of Care report
11. Other publications affecting CQC
12. Update from the Adult Social Care Directorate
13. Update from the Hospitals Directorate
14. Update from the Primary Medical Services and Integration Directorate

### **1. Values**

On 1 October 2014 the new CQC Values and Behaviours were launched at the leadership conference attended by over 400 staff and viewed by others from across the organisation through a live webcast (to date, there have been over 300 views of this webcast). The launch event was attended by the Chair and two Board members. The four selected values are supported by statements couched in the first person, setting out the behaviours that described the values into action.

- **Excellence** – a high performing organisation

In my work for CQC:

- I set high standards for myself and others, and take accountability for results
- I am ambitious to improve and innovate
- I encourage improvement through continuous learning,
- I make best use of people's time, and recognise the valuable contribution of others

- **Caring** – to treat everyone with dignity and respect

In my work for CQC:

- I am committed to making a positive difference to people's lives
- I treat everyone with dignity and respect
- I am thoughtful and listen to others
- I actively support the well-being of others

- **Integrity** – doing the right thing

In my work for CQC:

- I will do the right thing
- I ensure my actions reflect my words
- I am fair and open to challenge and have the courage to challenge others
- I positively contribute to building trust with the public, colleagues and partners

- **Teamwork** – to be the best we can be

In my work for CQC:

- I provide high support and high challenge for my colleagues
- I understand the impact my work has on others and how their work affects me
- I recognise that we can't do this alone
- I am adaptable to the changing needs of others

The next stages in the “values journey” are to “absorb, embark and embed” the values into the way we operate. October will be a period of reflection, a time to discuss and “absorb” the new values. During October an information pack will be sent out to line managers to enable them to prepare their teams for the activities that will take place in November which will be ‘values month’. In November we will “embark and embed” the values in the organisation, bringing each value to life through a series of events. Each week in November there will be a focus on a different value, starting with Excellence on 3 November then Caring, Integrity and Teamwork. At the beginning of the month supporting material will be distributed to all offices across the country. Throughout the month there will be a number of themed keynote speakers, talks by people who have used services, engaging stories published on the intranet, team/office activities, and so on. Staff will be asked to send in their thoughts and comments throughout the month to help co-produce the official CQC Values Guide to be published in December 2014.

## 2. Handbooks

Following extensive joint development, consultation and testing, CQC has published Handbook documents to help care providers to understand how they will be assessed and rated from now on.

- NHS acute hospitals, community health services, and specialist mental health services were published on 25 September
- Residential and community adult social care services – published 9 October
- NHS GP practices and GP out-of-hours services – published 9 October

CQC has also published the key lines of enquiry and ratings characteristics.

The documents are all available on our website at the following location: <http://www.cqc.org.uk/content/guidance-providers> Further documents will be added to this location over the coming weeks and months.

## 3. Duty of candour

The new regulations setting out fundamental standards of care will come into force for all care providers on 1 April 2015. However, two of the new requirements – the fit and proper person requirement for Directors and the duty of candour – will come into force for NHS Trusts and NHS Foundation Trusts from mid-November 2014, subject to parliamentary approval.

The purpose of the duty of candour is to ensure that providers are open and honest with service users and other ‘relevant persons’ (people acting lawfully on the behalf of service users) when things go wrong with care and treatment, and that they provide them with reasonable support, truthful information and a written apology.

To meet the requirements of this regulation, providers must ensure an open and honest culture exists across and at all levels within their organisation. The provider must ensure it has systems in place for knowing about notifiable safety incidents (the regulation provides an explanation of what is meant by ‘notifiable safety incident’, ‘harm’, and an ‘apology’) and must tell the relevant person(s), in a timely manner, when such an incident has occurred. This includes providing a truthful account of the incident, providing an explanation in writing about the enquiries and investigations that will be undertaken and offering an apology in writing. In addition, the provider must maintain appropriate written records and offer reasonable support in relation to the incident.

One challenge with enforcing the duty of candour is that there is potential for this to lead to CQC investigating individual cases as we try to establish whether a Trust has met the requirements of the duty of candour. We propose to focus on how trusts have met the duty to notify relevant persons and how they’ve reached their conclusions about what it was necessary for them to do. It would only be in exceptional cases that we would go beyond this approach.

CQC’s approach to monitoring and inspecting the duty of candour will be:

- Assessment of providers upon application for registration

- The Hospitals Directorate Assessment Framework has a key line of enquiry (“Are lessons learned and improvements made when things go wrong?”) under the safety question, which includes a specific prompt for the duty of candour as follows:  
*“Are people who use services told when something goes wrong, given an apology and informed of any actions taken as a result?”*
- There will be a sub-heading on the duty of candour within the overall provider level report under the key question of ‘Is it Safe?’. This will include capturing good practice on the duty of candour.
- Currently, it is mandatory for NHS Trusts to report *serious* incidents to NRLS, but voluntary to report *moderate* incidents. The duty of candour makes it mandatory for NHS Trusts to report on moderate incidents. CQC’s Intelligence Monitoring (for acute and planned for mental health) already receives data via NRLS on incident reporting, and we would anticipate an increase in incident reporting by trusts in response to the duty of candour. CQC will be able to monitor this pre-inspection.
- In addition, we intend to sample incidents reported to NRLS (serious and moderate) and incident logs held at the Trust level, assess these against the defined the duty of candour threshold and so determine whether the Trust is effectively assessing incidents. We will review this sampling process after the first six months of inspecting against the duty of candour.
- Colleagues in Strategy are currently working with the Hospitals Directorate and the Academy to ensure inspectors in the Hospitals Directorate are ready to inspect against the duty of candour as of mid-November. This includes:
  - written guidance explaining the regulation;
  - ensuring inspectors are clear about thresholds for meeting the duty of candour requirements, based on the Dalton/Williams report “Building a culture of candour”, through training and specific guidance;
  - role play and e-learning module available during October 2014, including scenarios to help guide staff;
  - face to face training for senior managers, delivered by a specialist legal trainer; and
  - inclusion of the duty of candour in training for all inspection staff.

CQC will also encourage providers to understand expectations in regards to this new standard. CQC consulted on the duty of candour provider guidance and will publish updated guidance ready for implementation in November 2014. In addition, we are in discussion with Action Against Medical Accidents (AvMA) about supporting some regional provider focused events in regards to the duty of candour.

The recommended approach is intended to enable CQC to use the first five months to embed the duty of candour into our inspection process; raise awareness of the duty of candour and establish a baseline of current practice within the NHS. We will also use learning from our approach in the NHS to determine how we will monitor and inspect the duty of candour in the other sectors, when it comes into force for all provider in April 2015.

#### **4. Fit and proper person requirement**

This regulation applies to NHS Trusts and NHS Foundation Trusts from 21 November 2014.

##### **Implementing the Fit and Proper Person Requirement (for Directors) NHS Bodies**

The fit and proper person test is a requirement that a provider must be able to demonstrate they meet the regulation. It is the responsibility of the NHS Trust and NHS Foundation Trusts, Foundation Trust Governors and Trust Development Authority to ensure that executive and non-executive directors are of good character and are not unfit to undertake the role to which they are appointed. Monitor will carry out this function when Foundation Trusts are subject to their regulatory regime where this leads to change in a Chair / CEO. There are agreed parameters (from the DH consultation document) of good character which include being competent and having the skills and capabilities for the role for which they are being employed. For NHS Trusts there is already a range of good guidance documents that cover value based recruitment, appraisal and development and disciplinary actions including dismissal for Chief Executives, Chairs and Directors. CQC expects all NHS Trusts to be cognisant of the various guidelines and to have implemented procedures in line with this best practice.

Those who are unfit will include individuals on the children's barred list or the adults' barred list maintained under section 2 of the Safeguarding Vulnerable Groups Act 2006, or in any corresponding list maintained under an equivalent enactment in force in Scotland or Northern Ireland. Directors must not be prohibited from holding the relevant position under any other law such as Companies Act or Charities Act.

##### **Managing the process in the first six months**

The fit and proper person requirement is an entirely new regulation. In the first instance CQC will hold providers to account where they continue to employ Board Directors when this is in contravention of obvious legal parameters. There is always a possibility that there is a sudden and catastrophic failure of care and there will be attention on the role of the Board Directors. The expectation may well be raised that CQC take enforcement action that leads to the Trust removing an individual director. We propose that in any such cases we consider this on the individual merits through the setting up of an internal panel. The panel will include staff such as the Chief Inspector of Hospitals, the portfolio holder of the Trust, the relevant head of hospital inspections, head of hospital policy and legal services.

##### **Timeline to delivery**

CQC has worked with a range of stakeholders including our staff, Chairs and Chief Executives of NHS Trusts and Foundation Trusts, lawyers, TDA and Monitor to co-design the guidance for our staff and the sector. We will publish our response to the consultation on the regulation at the end of October 2014. This will set out what providers are expected to undertake to meet the regulation. We will also publish our staff guidance prior to commencement of the regulations in November, alongside training delivered through e-learning.

## 5. Review of ratings

A Ratings Review Manager and Ratings Review Officer have been appointed and have taken up their posts. The Ratings Review Manager and HR Lead are in discussions with specialist recruiter Veredus to appoint Independent Reviewers who will make recommendations on the determination of any request for review of a rating. It is anticipated that these Reviewers should be in place within the eight weeks.

Now the Team is in place, they will finalise the process for requesting and considering a request for review based on the principles agreed by the ET and Board to date. The initial requests continue to inform this final approach. Once completed, this finalised procedure will be presented as a proposal to the Executive Team.

A review of some ratings for The Dudley Group NHS Foundation Trust has been completed and the recommendation of this review awaits a final decision from the Chief Inspector of Hospitals. Further requests from Royal National Orthopaedic Hospital NHS Trust and North Middlesex University NHS Trust are under initial consideration by the Ratings Review Team.

The Ratings Review Team are in discussions with ASC and PMS teams to anticipate future workloads as these Directorates begin to award ratings.

## 6. Update on recruitment

There are 156 new starters across the three inspection directorates from 1 August 2014 to date. Customer and Corporate services have 15 new recruits across all areas including business services, and 48 transfers from temporary to permanent contracts in CQC's National Customer Service Centre. We have recruited 37 employees across the Strategy and Intelligence directorate, and four into HealthWatch England.

In addition, secondment recruitment is going well and CQC has received 451 completed applications so far. Internal managers have sifted nearly 400 applications, of which 184 have been progressed to the next stage in the process. We are expecting to see offers being made over the next couple of weeks. We continue to take steps to attract further staff, via engaging with specialist advisors, advertising in relevant newsletters, and attending conferences and events to promote opportunities.

Mental Health recruitment is also showing success, with 15 offers to date. Further work includes more specific targeting for secondees, and Paul Lelliot (Deputy Chief Inspector for Mental Health) will also be speaking at several events over the coming weeks, where he will promote CQC recruitment.

A regular progress report on recruitment is now made to the Executive Team so we can monitor progress.

## 7. Update on Staff Development and the Academy

The Academy continues to make good progress on role specific training for new inspectors and the corporate induction programme.

### **Mental Capacity Act**

Significant efforts have been put into improving the training available for CQC inspectors in relation to the Mental Capacity Act (MCA). This training will help and support inspectors when considering the Key Lines of Enquiry, and registration inspectors when making judgements about providers and managers application of the MCA. The skills audit carried out earlier in the year highlighted that this was an area in need of development. All inspectors are expected to be enrolled on courses by end of this month, with training starting soon after. 1300 inspection staff will be trained in this area, commencing with the Adult Social Care sector.

### **Enforcement and new regulations**

1300 staff will be trained on CQC's enforcement powers by March 2015. This includes the fit and proper person requirement and the duty of candour training, commencing with the Hospital Directorate in early November 2014 and further rollout to all sectors from November 2014 to March 2015. Further work with the Health and Safety Executive and fundamental standards training will also be offered prior to March 2015.

All sectors receive training that supports the changes in methodology for their Directorate:

- PMS: To date 225 people have attended training for changes in methodology for GPs and Out of Hours for this sector, and further training will be provided for the methodology in relation to dentists in due course.
- ASC: To date 522 people have been through their methodology training. This will be concluded for the remaining 235 people in this Directorate in early November 2014.
- Hospitals: this sector have concluded with methodology training but further training will be offered in a number of new methodology changes, such as independent health.

All bank staff are included in the above. Many additional sector specific programmes will also run between November and March 2015.

## 8. GP Intelligent Monitoring

CQC has written to the Secretary of State to confirm a change to our timetable for the launch publication of CQC's GP intelligent monitoring tool and data, which was previously scheduled to be published on 9 October 2014. The revised timeline is that we aim to publish by 18 November 2014. The additional time means that we can conduct an additional validation process with a representative sample of practices and CCGs, and would also enable us to incorporate the most recent Quality and Outcomes Framework and General Practice Outcome Standards

indicators into the framework, thus ensuring the GP Intelligent Monitoring publication used the most up to date data.

## **9. Correspondence from PHSO**

I have received a letter from the Parliamentary and Health Service Ombudsman (PHSO), to inform CQC that for serious health complaints which come to them outside the normal 12 month period, they will now actively consider whether an effective investigation is possible. If they judge that it is possible, they will generally exercise their discretion to investigate.

## **10. Scheme of Delegation**

As indicated in my report to the Board last month, an updated version of our Scheme of Delegation was published on our intranet and website on 6 October 2014. The Scheme of Delegation is an important document which sets out who has the authority to make decisions within CQC. We are ensuring, through a range of internal communications channels, that our staff are aware of the revisions that have been made to the Scheme to update it for the new Care Act 2014 responsibilities and other changes which the Executive Team agreed on 30 September 2014 were appropriate to make. For example, written representations from providers can now be considered by a wider pool of senior managers within the organisation which will reduce the time it takes CQC to respond to them. The Scheme will next be revised for 1 April 2015 when we take on further new responsibilities, such as market oversight.

## **11. State of Care Report**

CQC's annual State of Care report is to be published and laid before Parliament on 16 October 2014 and then published on our website on 17 October 2014, following the launch event that Board members have been invited to.

## **12. Other publications affecting CQC**

This autumn NHS England will publish a "Forward View" that aims to influence the national debate by outlining the challenges and choices facing the NHS over the next five years. The "Dalton Review" of new options and opportunities for providers of NHS care to support their future clinical and economic sustainability is also expected to publish later this year. CQC has been closely engaged with both these pieces of work to ensure CQC's role as quality regulator is appropriately represented and included in the debate.

## **13. Update from the Adult Social Care Directorate**

### **Special Measures**

A workshop, hosted by the Department of Health, was held with providers to explore what a special measures regime might look like for adult social care. The workshop

highlighted some of the challenges about how this will work with our enforcement powers; what the timings would be for taking action; when and what improvement support would be offered; whether there was any budget available. We will bring proposals on special measures to the Board in due course.

### **Market oversight**

We continue to hold a number of co-production events to help shape our approach to the new regulatory duties on market oversight in adult social care. We have had events on our assessment framework and approach to intelligent monitoring, and on the regulatory response to different risk scenarios. Further events are scheduled for the remainder of the Autumn, including on transparency issues and with the Chairs of all the providers likely to be in the scheme. In developing our approach, we are being advised by KPMG following a procurement process, and their input has been well received by partners. Feedback from providers, commissioners and lenders has so far been positive about our proposed operating model.

Alongside developing our operating model, a key task is to scope and agree how to resource the model within CQC, and options will be taken to the Investment Committee and Executive Team meeting next month (to ensure necessary time to implement in advance of April 2015). A clear message from providers during our co-production work has been how critical it will be to ensure CQC has the necessary skills and experience to understand the complexity of financial risk in this sector.

## **14. Update from the Hospitals Directorate**

### **Trusts inspected to date**

We have now inspected 69 of 160 acute trusts, 13 of 56 mental health trusts and eight community health services trusts. We have now also inspected two ambulance services (North West and South Central).

### **Positive news**

Frimley Park NHS FT is the first trust to have been awarded an outstanding rating. Five of its eight core services were individually rated as outstanding, as were three domains (Caring, Responsive and Well led). Frimley Park has now acquired Heatherwood and Wexham Park NHS FT, which was previously in special measures. CQC will continue to monitor the combined Trust closely.

### **Concerns**

Medway NHS FT remains our highest concern. A high level meeting involving CQC, Monitor and NHS England has recently been held to consider how best to strengthen the actions being taken on safety and leadership.

## **15. Update from the Primary Medical Services and Integration Directorate**

Within the PMS Directorate, the focus of the last month has been:

- Completing our pilot inspections and gaining a good understanding of what went well and what needs to change
- The production of the provider handbook for NHS GP practices and GP out of hours services
- Planning for extra training and support for staff with the help of The Academy
- Induction of our four Regional GP Advisors
- Establishment of the new system for Regional and National Quality Assurance Panels to ensure consistency of reports
- Publication of the Out of Hours report which was very well received, although did not get as much national press exposure because it was a good news story

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

**Name:** David Behan  
**Title:** Chief Executive  
**Date:** 9 October 2014