

Care Quality Commission Consultation on Regulatory Fees from April 2015 *Response from NHS Providers (January, 2015)*

1. INTRODUCTION

NHS Providers is the membership organisation and trade association for the NHS acute hospitals and community, mental health and ambulance services that treat patients and service users in the NHS. NHS Providers helps those trusts deliver high quality, patient focussed care by enabling them to learn from each other, acting as their public voice and helping them shape the system in which they operate.

NHS Providers has 226 members – 94 per cent of all NHS foundation trusts and aspirant trusts – who collectively account for £65 billion of annual expenditure and employ more than 928,000 staff.

We welcome the opportunity to comment on the Care Quality Commission's (CQC) consultation on regulatory fees from April 2015 for all providers registered under the Health and Social Care Act 2008. Our response focuses on the proposed 9 per cent increase for all registered providers as this is the proposal in the consultation affecting NHS foundation trusts and trusts.

2. OVERALL POSITION

NHS Providers welcomes the engagement mechanisms which CQC has put in place to ensure a regular dialogue with sector representatives on the development of their fees model. However, like colleagues across sectors in health and social care, we are extremely disappointed that CQC is proposing an increase in regulatory fees for all registered providers.

KEY MESSAGES

- Any increase in fees is difficult for our members to accept at a time when they are being asked to make unprecedented efficiency savings as demand for services continues to rise. A 9 per cent uplift represents an unacceptable cost to the sector.
- CQC faces a significant challenge in balancing a proportionate and risk-based approach to quality regulation for the benefit of patients in an environment where providers face challenges which may impact upon quality, but often extend beyond their control.
- The combined budget for Monitor, CQC and the NHS Trust Development Authority makes up a substantial proportion of the NHS budget and all the regulators need to be held to account for providing the public with value for money and ensuring the long-term sustainability of the regulatory framework.
- We understand that CQC has been required by HM Treasury to move towards full cost recovery and we welcome the regulator's commitment to measure its costs and benefits on an ongoing basis.
- Given that the costs of the new approach are not yet fully understood, and the current financial position of our members, we would urge CQC to avoid imposing any increase for 2015/16 and to adopt a much more gradual pace towards full cost recovery.

3. THE FINANCIAL CONTEXT

The financial challenge facing the NHS in 2015/16 is at its greatest since the government's deficit reduction programme began. Despite the fact that demand for NHS services continues to grow, Monitor has recently announced a tariff efficiency factor of 3.8 per cent. The proposed 9 per cent fee uplift equates to an additional £1.8m in fees across the foundation trust and trust sector. This represents a significant opportunity cost at a time when providers should be devoting all their limited resources to delivering high quality care. For example, £1.8m could pay for 23,685 people to be seen in A&E¹.

¹ Figure based on the tariff price for a category 1 attendance in A&E

At the end of Q2 2014/15, 141 foundation trusts and NHS trusts were in deficit, or 58 per cent of the NHS provider sector. This represents a 114 per cent increase in the number of NHS providers in deficit compared with 2013/14. The net financial position of NHS providers has deteriorated from a £590m surplus in 2012/13 to a forecast £550m deficit by the end of 2014/15. In these circumstances, providers will struggle to maintain current levels of service, yet are expected to deliver a range of improvements. The additional £2bn funding announced by government for 15/16 will assist in mitigating the financial gap for that year alone, rather than allowing NHS providers to work with their local health economy partners to plan for transformational change.

In this context, our members face difficult choices as they strive to maintain the quality of services for patients. It is clear that if fees are increased and NHS providers do not receive funding from commissioners to cover the increase, they will have to divert funds away from patient services in order to pay CQC. A number of our members have expressed concerns about this in view of the additional pressure that the recently announced 3.8% tariff efficiency factor will place on their resources.

Against this backdrop, our members find the proposed 9 per cent fee increase unacceptable. In fact, they expect CQC to seek efficiency savings on a par with those required of the sector as a whole.

4. EFFICIENCY AND EFFECTIVENESS OF THE NEW MODEL

It is important to note that the costings used to calculate the proposed fee increase and ongoing fee strategy are based on a new, developing model that has not yet been properly evaluated.

NHS Providers welcomes CQC's new role and is committed to ensuring the new model is effective and adds value. However, it must also be cost-efficient and sustainable. We recognise and value the improvements the new model has brought. However, changes are needed in a number of areas to ensure the model is effective and sustainable, and it is essential providers are adequately resourced to meet agreed quality standards.

The evaluation of the acute hospital regulatory model published by Walshe *et al* (2014)² identified a number of areas which need to be addressed to ensure the model's sustainability, including the size of inspection teams and length of inspections. Feedback from our members reaffirms this. Members who responded to our recent regulation survey raised several concerns, which are supported by the findings of the Walshe *et al* (2014) report:

- Our members cited 'costs in staff and leadership time', 'fear of punitive action' and 'distraction' from the day job as the greatest impacts of the regulatory framework.
- Over half of respondents were not confident CQC's intelligent monitoring effectively measures risks to safety and quality.
- Our members believe levels of scrutiny are rising and current reporting requirements feel disproportionate to the value added for the sector. 39 per cent said CQC's approach involved 'too much scrutiny'.
- Preparing for and hosting inspections is extremely resource intensive; nearly half of respondents feel this 'cost' is disproportionate to the benefits they gain from the process (43 per cent).

NHS trusts and foundation trusts have expressed particular concern that the disruption of services and hidden costs to providers of undergoing an inspection has not been taken into account in setting the new fees. Regulatory fees now cover only 53.9 per cent of chargeable costs as a result of CQC's budget increasing by £44m. In the interest of building credibility in the current system, NHS Providers would like to see CQC take steps to address our members' concerns before starting to increase fees. A focus on improving the model's sustainability has the potential to reduce costs, whilst also removing some of the logistical burden that inspections currently place on the frontline.

CQC has made a positive and welcome commitment to be cost-effective, offer value for money and to apply the same standards of continuous improvement to itself that it expects of others. This must surely include cost reduction and our members therefore expect fees to decrease when costs can be reduced.

² Walshe K, Addicott R, Boyd A, Robertson R, Ross S (2014). Evaluating the Care Quality Commission's acute hospital regulatory model: final report. Available at <http://www.cqc.org.uk/content/evaluation-helps-hospital-inspection-development> (accessed 13 November 2014).

5. A SLOWER PACE TOWARDS FULL COST RECOVERY

CQC has based the costings for its new model on the costs of inspection and enforcement action for those organisations inspected so far – primarily acute hospitals, and beginning with those with the highest levels of risk. It is therefore reasonable to expect that the costs of regulation overall, once all providers have been inspected under the new regime, the model has been sufficiently evaluated and CQC has made efficiency savings where possible, may prove to be lower than the current projections.

As the regime beds in and providers improve the quality of their services, we should expect them to require less costly additional monitoring and enforcement action in line with a risk-based approach. As this takes place, CQC should be able to reduce its budget accordingly.

CQC plans to continue to gather further information on its impact, measure its costs and benefits on an ongoing basis, and publicly demonstrate its effectiveness and value for money as the new approach settles in. Any increase in fees needs to be supported by strong evidence, and should only be implemented once the scope for efficiency savings has been fully assessed. CQC has commissioned a project to identify a framework that will ensure it captures the right information about how it can measure the impact and value of its work. The National Audit Office is also undertaking an analysis of the value for money that CQC provides. Our members feel strongly that CQC should wait for this important feedback on its cost effectiveness and value for money before imposing any fee increase. We would expect this to be after all NHS providers have been inspected under the new model, at the earliest.

CQC intends to re-introduce fee charges for applications to register or to vary the conditions of registration from April 2016. Once these costs are separated from annual fee charges, fees for all providers will come down. CQC has also identified a number of other changes to the fees structure and we would suggest holding back on increasing fees until these have been implemented.

CQC has made a commitment to respond to repeated requests from providers to introduce flexible payment to help them manage their cash-flow. However, this option will not be introduced until April 2016, subject to successful resolution of logistical and IT issues. These issues should be addressed as soon as possible.

It is clear that the costs of the new model are not yet fully understood and it is still in the early stages of evaluation in terms of effectiveness, sustainability and value for money. CQC has also identified several necessary changes that it does not intend to action for the period this consultation relates to. Given that the new approach is still bedding in, and the significant challenges providers currently face, we would urge CQC to defer any increase in fees until the new model is fully established.