11 January 2017

CQC REGULATORY FEES FOR 2017/18

ABOUT NHS PROVIDERS

NHS Providers is the membership organisation and trade association for the NHS acute, ambulance, community and mental health services that treat patients and service users in the NHS. We have over 220 members – more than 90% of all NHS foundation trusts and aspirant trusts – who collectively account for £65 billion of annual expenditure and employ more than 928,000 staff.

INTRODUCTION

NHS Providers welcomes the opportunity to respond to this consultation on behalf of our members. Our response to this consultation builds on the concerns we raised last year about the speed and scale of the fee increases and the resulting impact on providers who are already operating in an extremely challenging financial environment. We understand and recognise that the fee levels for 2017/18 will meet the objective of achieving full cost recovery and reflect the requirements imposed upon the CQC by HM Treasury. However we are disappointed that the consultation dismisses the possibility of revising the timescale of the trajectory to full cost recovery, particularly considering that a more extended timeframe was overwhelmingly supported by those who took part in last year's consultation. We also remain concerned at the limited capacity of our members to absorb the significant additional CQC fees that this and last year's consultation have brought about.

The CQC has now completed its first round of comprehensive inspections of all NHS trusts and recently refreshed its strategy for the next five years. We welcome the commitments set out in Shaping the future – CQC's strategy for 2016 to 2021 in terms of ensuring that future inspections are more targeted and also pursuing a model based on risk. It is therefore important to recognise that this will entail a fundamental change in how the inspection regime currently operates which will, in turn, have a direct impact on the resources the CQC will require in future years. This should be reflected in the CQC's fee strategy going forward.

FINANCIAL CONTEXT IN WHICH PROVIDER TRUSTS ARE OPERATING

The proposals in this consultation mean that NHS providers will see their fees rise by almost 50 per cent in April 2017, equating to over £100,000 for some. Across the whole NHS provider sector, the rise in fees is more than £18 million, which would be sufficient to cover the wages of around 700 nurses for a year. This comes on the back of a fee increase for NHS trusts of as much as 75 percent in 2016/17.

As stated in our consultation response last year, the proposed increases in CQC fees will add further pressure on NHS foundation trusts and trusts which are already operating in a climate of significant financial constraints. The sector has witnessed the largest aggregate deficit, with two thirds of all trusts in deficit at the end of 2015/16 and financial pressures spread across all types of providers. For 2016/17, the provider sector has been asked by the arms length bodies to reduce the deficit down to £580 million, with trusts making progress towards delivering this. However, providers are operating at full stretch due to considerable financial pressures and rapidly growing demand for their services. As findings from our recently published State of the NHS provider sector report indicate, the majority of trusts (74 per cent of respondents) are worried about their ability to maintain the level and quality of services within the resources available.

This is all the more significant given that much of the additional funding for the NHS has been frontloaded, with the rate of NHS funding increases due to slow down considerably over the remaining of this parliament. This is coupled with a lack of a commitment to extra funds for either health or social care in the recent Autumn Statement. Against this backdrop, the fee increase being consulted upon for this second year (17/18) is likely to exacerbate the financial squeeze providers are experiencing as well as risk diverting resources away from frontline patient services, at a time when financial constraints are set to become even more pronounced.

Our members would therefore welcome reassurance that as they start to bear more of the cost of regulation directly, they will be appropriately reimbursed through the tariff and other payment mechanisms. We suggest that the CQC should seek to work with the Department of Health and other national partners to address this issue urgently, in order to mitigate the impact of any increase in fees on providers' financial sustainability.

As the consultation document recognises, while the impact of the proposed fee increases will be felt across all sectors the CQC regulates, this will affect most severely providers in sectors furthest away from full cost recovery. As it has been widely acknowledged and as the CQC itself has reported in its recent 2016 State of Care report, the state of social care is perceived to have reached a 'tipping point', while pressures on the primary care sector are also mounting. There needs to be consideration of the wider impact of the additional costs to be absorbed by the rest of health and care sector under these proposals. We reiterate our concerns about the potentially destabilising impact specifically on providers within primary and social care sectors, which is of particular concern as both sectors face a much steeper fee rise than in the previous year. Feedback from our members has raised the risk of 'double whammy' effect of providers having to meet the proposed CQC fee increases and on top of that having to absorb extra demand from these sectors if services are forced to close due to the increased financial pressures.

IMPLEMENTING CQC'S NEW STRATEGY AND INSPECTION APPROACH

Our members support effective regulation that ensures patients receive high-quality and safe care, offers value for money and ensures alignment between the different regulators to avoid overlap and duplication. Inspections are a crucial element of the regulatory framework and are important for maintaining public confidence in the system. However, a recurring concern they raise regarding the current inspection framework relates to the substantial resources required to prepare and participate in an inspection and the high costs associated with compliance.

We and our members strongly support CQC's ambitions set out in its new strategy in relation to how it will regulate, inspect and monitor services in the future and are keen to engage closely on how these will be translated into practice. This will involve carrying out fewer and more targeted inspections and relying on a more intelligence-driven approach to regulation. Taken together, this would go some way towards ensuring the long-term sustainability and affordability of the regulatory model for the sector as a whole – for the regulator and for those being regulated.

It will be imperative that the CQC makes sure that the process for setting fee levels in future years is as closely aligned to the implementation of its new five year strategy as possible. While the 2017/18 fee proposals are based on the 2015/16 analysis of the costs of the current model, the assumptions that the CQC uses to calculate its fees will require refreshing as it seeks to implement its new approach in line with the direction of travel set out in the strategy. As the CQC moves to develop a more targeted and risk-based inspection regime, we would expect these changes in its operating model to also have an effect on the costs of regulation and ultimately bring down fees for providers overall. We and our members would encourage the CQC to begin to build analysis of the costs of

Contact: Cristina Sarb, Policy Advisor (Regulation) cristina.sarb@nhsproviders.org

implementing its more targeted approach into how fees are calculated and be transparent about sharing that information as the new model develops.

This needs to be coupled also with a renewed efforts to work with other oversight bodies to streamline the overall monitoring requirements on providers, by reducing duplication and improving alignment which should help reduce the burden overall.

DEMONSTRATING VALUE FOR MONEY

We commend the CQC for making the need to deliver an efficient and cost effective model of regulation a core tenet of its five year strategy. The ultimate measure of the CQC's value for money is the impact of regulation on the quality and safety of care, relative to the cost and burden imposed on those it regulates. While progress has been made, the regulator still faces a difficult task in demonstrating it is delivering value for money in the way it regulates the quality and safety of health and care. Our members have consistently highlighted concerns about the overall value for money provided by the inspection regime. Our 2015 survey of members' experience of the regulatory regime found only 32 per cent of providers felt the benefits their trust gained from CQC inspection justified the cost in resources of preparing for, and hosting, the inspection team. It is perhaps not surprising that this has led some of them to question the added value they would get from the proposed increase in fees.

A combination of factors – the significant nature of the fee increases proposed, the demand on providers to contribute substantially more as a proportion to CQC's funding and the regulator beginning to assess providers' use of resource from next year – underlines a strong need for the regulator to make swift and significant progress in terms of driving greater efficiency and minimising the financial burden on providers and the public purse. This will be essential to maintain credibility of those it regulates and the public. We commend the CQC for its ongoing work to understand and evaluate its impact and look forward to the forthcoming publication of its first report detailing its own value for money review.

CONSULTATION QUESTIONS

1. *What are your views on our proposals for fees for 2017/18, which take us to full chargeable cost recovery for most sectors? You may wish to comment, for example, about the impact on your service of the fees scheme as set out in this consultation.*

As stated above, we understand and accept that CQC has a duty to cover its costs by charging fees. However, we continue to have serious concerns about the fee increases of the proposed magnitude will have on an overstretched health and care system where providers are facing pressures on multiple fronts and are being asked to meet extremely stretching efficiency targets. Looking ahead and following the achievement of full cost recovery, the onus will remain on the CQC to continually explore the scope of maximising the value it provides and ensure the fees in future years can be kept to a minimum. When the Government consulted on introducing the principle of full cost recovery, it set out an expectation for the CQC in future years to be 'seen to be applying downward pressure on its costs wherever possible, rather than relying only on fee increases'. Cost recovery through fees must be underpinned by a robust monitoring and evaluation of costs and the CQC must ensure it will only raise the fees necessary to cover the costs of its regulatory functions and not impose undue financial burden on those it regulates over and above this.

1. *What are your views on our proposal to change a definition in the fees scheme to reclassify providers of substance misuse treatment services as providers of healthcare activities?*

2. *What are your views on our proposal to change a definition in the fees scheme to clarify charges for providers of services in minor injuries units and urgent care centres?*

We do not have a view on these questions.

CONCLUSION

In recognition of the severe pressures the provider sector is facing, the CQC will need to redouble its efforts to rigorously evaluate its efficiency and effectiveness as a regulator, demonstrate value for money and ensure that the financial burden on providers is minimised.

Efforts should continue that a risk-based approach to regulation is implemented with due consideration to the broader constraints and pressures that providers face. We look forward to seeing proposed changes to the CQC's model as outlined in its new five year strategy making a positive impact on ground, including on sustainability and affordability of the regulatory framework. The CQC should seek to demonstrate the same continuous improvement culture it seeks to embed in the wider health and care sector by driving up efficiencies and aiming to reduce the costs of its operating model. As the CQC seeks to move to a new risk based approach, it will need to show how fees relate to the costs of regulating the different sectors and also demonstrate value for money. Finally, we would encourage the CQC to avoid where possible taking on new responsibilities or embarking on new activities without assessing the impact on its capability and costs which would fall to providers.

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Contact: Cristina Sarb, Policy Advisor (Regulation) cristina.sarb@nhsproviders.org