CQC monitoring the mental health act in 2019/20 and community mental health survey 2020

The Care Quality Commission (CQC) has today published *Monitoring the mental health act in 2019/20*, which is the regulator's annual report on the use of the Mental Health Act (MHA). It looks at how providers are caring for patients, and whether patients' rights are being protected. CQC also published its 2020 community mental health survey this week, which has been conducted almost every year since 2004 to collect information about the experiences of those using NHS community mental health services. This briefing summarises key points from the reports, but we encourage providers to read both in full for a comprehensive overview.

Key points

- This year's Monitoring the mental health act report puts a specific focus on the impact that the COVID-19 pandemic has had on patients detained under the MHA, and on the services that care for and treat them. The CQC found that many of the services it considered through its remote monitoring of the MHA coped well during the pandemic.
- CQC found services that focused most on carefully applying the principles of least restriction were the most successful in empowering their patients, and staff, to cope with the extra restrictions imposed on society in general. Good services also put an emphasis on care planning to involve and empower patients, as well as co-production with patients to improve the ward environment.
- CQC outline the following actions it wants to see in future to best support people subject to detention under the MHA:
  - Plan for individuals' discharge from hospital, carried out in co-production with patients and their families/support networks to ensure better outcomes.
  - Co-produce care with patients, including infection control measures. Where this is done, the negative impact of restrictions on detained patients during a pandemic can be limited.
  - Modernise the physical environment of services. This would help infection control measures.
  - Services recognise the significant impact restrictions on leave of absence and activity can have on detained patients and ensure these are lifted as quickly and as safely possible.
  - Continue to relax rules around using personal technology. Services should prioritise linked issues such as WiFi connectivity in future estates development.
  - Offer advocacy to detained patients as an opt-out basis in future.

- Carefully evaluate the use of remote technology where aspects continue after the pandemic.

- CQC's 2020 community mental health survey found that many people are having poor experiences of NHS community mental health services. Poor experiences were reported for accessing care, support and wellbeing, and crisis care. Involvement and communication were identified by CQC as further key areas for improvement. CQC also found disparity in the experiences of different groups of people, especially among respondents with different diagnoses.
- The organisation of care and treating people with dignity and respect were areas where people responding to the survey were found to be more positive. 91% of people responding to the survey said the person that organised their care did so well, and 73% reported that they were always treated with respect and dignity.
- The survey results have been released for providers to review the experiences of people who use their services and to make improvements where needed. CQC will continue to use the findings as part of its wider monitoring of the quality of mental healthcare and to plan its inspections.

Monitoring the Mental Health Act in 2019/20

Background

This year's annual report unusually focuses on events that occurred from the start of the COVID-19 pandemic. CQC have decided to do this so as to make widely available its observations and learning about the care and treatment of patients detained under the MHA during the ongoing pandemic while this is most relevant and useful. Data from CQC's monitoring and other activities in 2019/20 will be further analysed and discussed in the regulator's next annual report, to be published in 2021.

Patients and carers feedback on impact of the pandemic

CQC identified the most pressing concerns for patient as including:

- not being able to continue with community activities
- feeling 'cooped up'
- having less contact with friends and family
- and possibly having to spend longer in hospital than might otherwise be the case.

Many detained patients understood and supported the need for measures to limit the impact of COVID-19 and keep them safe. People appreciated being given opportunities to understand, discuss or question arrangements. Involvement in decision-making was a key factor in avoiding a sense of helplessness, or that arbitrary rules were being applied. Many patients CQC spoke with said how

grateful they were to staff, who they often saw making additional efforts to address problems caused by the pandemic.

CQC found the things that make a service good in normal times were still the most important: individualised approaches; therapeutic relationships; and staff having the caring skills and autonomy to work effectively to help patients regain their own autonomy after detention in hospital.

Practical things that people appreciated were the additional efforts to bring activities onto the wards; ensuring access to outdoors and fresh air, off the hospital site where possible; ensuring families could stay in touch; and the many ways that services found to do things differently under adverse conditions. Carers appreciated, most of all, good communication from the hospital staff and innovative ways of keeping in touch with their loved ones.

Mental health inpatient services' pandemic preparation

The report states the experience of hastened hospital discharges at the start of the pandemic shows the importance of patient-led and effective care planning for discharge from the earliest opportunity. For a limited time early in the pandemic, CQC found the urgency to clear bed spaces reduced barriers to accessing placements and agreeing funding for discharge.

CQC saw some evidence of temporary service reconfigurations leading to complex ward mixes, and some patients feeling that their progress had been reversed, especially when lockdown delayed movements through or out of the system. Many services used remote technologies to minimise delays in assessments or replace site visits. CQC also found services were creative in the redistribution of staffing to manage pressures, for example redeploying occupational therapy or psychology staff onto wards. In many cases, this has provided lessons for continuing work to reach harder to engage patients by increasing ward-based interventions.

CQC welcome the organisation of specific MHA groups and clinical ethics committees. Some services made commendable governance arrangements over infection control measures, to provide a suitably tailored review process. CQC states committees should include the perspectives of people who use services and carers, and have proved able to react quickly to changing circumstances and help develop government guidance. CQC also state services should be monitoring key MHA indicators during the pandemic period, to ensure good governance and forward planning.

CQC found many services could demonstrate that they were communicating effectively with patients about the pandemic situation. CQC also found evidence of services following the recovery model, whereby patients are supported and allowed to have active involvement in the assessment of risk and in creating associated management strategies. The report also highlights CQC has heard some services are working to evaluate changes made to their procedures during lockdown, to lock in beneficial changes and recover or restore services where this is needed.

More broadly, CQC highlight that, with fewer beds and limited community support delivered through remote contact, there will have been significant unmet need during lockdown. The report warns this may increase the risk of coercive pathways into mental health care, including detention under the MHA. This has the potential to exacerbate the overrepresentation of some Black and minority ethnic groups who are already more likely to enter services through these routes. CQC stresses services also need to consider outreach to people without access to digital technologies.

Infection prevention and control

CQC found infection control worked best in services with a culture of coproduction with patients and carers. Many services reported that patients accepted and complied with the requirements of infection control. CQC stress the need to modernise mental health inpatient estates. It states larger, airier spaces with en-suite rooms and easy access to outdoors would improve patient experience and enable better infection control and this should be a key focus of any refurbishment plans.

CQC stress that services require consistent access to personal protective equipment and asymptomatic testing of patients on admission. The report also highlights that staff are at great risk of stress due to current working conditions and the importance of services taking this into account and offering extra professional and pastoral support where possible. CQC noted services who both recognised and helped to mitigate the impact on staff in the report.

Preserving least restriction, respect and dignity

Many services continued to support patients to take leave of absence from hospital, at reduced levels to comply with social distancing requirements. Some did not, either because of local conditions or because of outbreaks of infection on a ward. CQC expect services that have to make blanket restrictions to document the rationale for this and have challenged services whose restrictions extended long after the public lockdown eased.

CQC urged some services to make exceptions during the national bans on hospital visits where the needs of patients were not recognised. CQC has welcomed some services' innovative approaches to allowing safe visits and contact with families. The report highlights many services invested in computer tablets and relaxed rules over use of mobile telephones to improve patients' access to friends and family during the first lockdown. The report highlights increased access highlighted common problems of WiFi coverage, which should be considered in future estates development.

CQC observed changes in procedure introduced during the pandemic and feel that these should not continue afterwards without further consultation and evidence of impacts from people who use services and others. This includes the use of remote technology in clinical situations, including assessments for possible detention and Tribunal hearings and changes to Tribunal procedure.

Advocacy services moved to remote contact during lockdown and this highlighted the need for robust referral systems to ensure that patients are offered advocacy services from admission. In the longer-term, CQC believe the law should provide more stringent duties on services to refer patients immediately on admission, with advocacy as an 'opt-out' service, as recommended by the Independent Review of the MHA.

Deaths of detained patients during the pandemic

The report highlights some services experienced high numbers of COVID-19 infections, with related deaths despite measures put in place such as quarantine or cohort nursing, and the distress caused to patients and staff alike. CQC were notified of 107 deaths of detained patients attributed to COVID-19, where death occurred up to 6 November 2020. Most of these were during the peak of the first wave in April and May. CQC will continue to publish data on the notifications of deaths of detained patients throughout the pandemic, through its COVID-19 Insight reports.

Activity in monitoring the MHA in 2019/20

This chapter sets out CQC's data on monitoring activity for most of 2019/20 before the pandemic. The data from CQC's monitoring and other activities in 2019/20 will be further analysed and discussed in the regulator's next annual report, to be published in 2021.

- CQC carried out 1,052 visits, which was slightly less than in previous years.
- CQC met with 3,916 detained patients and spoke with 266 carers. CQC's remote monitoring methodology since April 2020 has increased its contact with carers, and with advocates, and this is something it wishes to retain when it returns to regular on-site visits.

- CQC required 3,638 actions from providers. The most frequently referred to cited principle was the MHA code's principle of empowerment and involvement in 12.4% of all actions.
- Second Opinion Appointed Doctor service carried out 14,263 visits to review patient treatment plans. Resulting certificates changed the treatment proposal in 23% of visits, and in a further 4% of visits no certificate authorising treatment was issued.
- CQC were notified of 877 absences without leave from secure hospitals.
- CQC received 2,231 enquiries about the way the MHA was applied to patients, and investigated complaints from 14 people.
- CQC were notified of 240 deaths of detained patients, of which 143 were known to be of natural causes, and 36 deaths of patients on community treatment orders, of which 21 were known to be natural causes.

CQC community mental health survey 2020

Context

The survey received feedback from 17,601 people who received treatment for a mental health condition between 1 September 2019 and 30 November 2019. 55 providers of NHS mental health services participated in the survey. CQC's analysis suggests that the survey findings have been affected by the national COVID-19 lockdown, which began during the fieldwork period. The 2020 results are therefore presented in isolation, rather than comparing against data from previous surveys.

Positive results

There are few results where the majority of people reported good experiences of mental health care. However, 'organising care' is an area where people were found to be more positive. Most people (97%) who were told who is in charge of organising their care and services said they knew how to contact this person if they had a concern.

Another area where people were found to be more positive is 'respect and dignity'. 91% said the person that organised their care did so 'very well' (58%) or 'quite well' (33%). The majority of people (73%) reported that they were 'always' treated with dignity and respect. 19% said they were 'sometimes' treated with dignity and respect.

Key areas for improvement

Results for questions related to support and wellbeing, crisis care, accessing care, involvement, and communication show that many respondents reported negative experiences. CQC also found

disparity in the experiences of different groups of people, especially among respondents with different diagnoses.

Support and wellbeing

- Almost two in five people (36%) had not had support with their physical health needs.
- Almost half of people (43%) did not receive help or advice in finding support with financial advice or benefits.
- 43% did not get help or advice in finding support for keeping or finding paid or voluntary work, but would have liked this help.
- Over a third of people (37%) did not receive support in joining a group or taking part in an activity, but would have liked this.

Crisis care

- Over a quarter of people (28%) indicated that they would not know who to contact, out of office hours in the NHS, if they had a crisis. Those accessing care for cognitive impairment and dementia conditions reported worse than average experiences, while those reporting better than average experiences were receiving care for psychotic conditions.
- Of those who indicated that they would know who to contact and did try to contact this person or team, almost a fifth (17%) either did not get the help they needed or could not contact them (2%).
- Just over half (53%) reported that they 'definitely' received the help they needed, and 28% said they did 'to some extent'.

Accessing care

- 44% of respondents who have received NHS therapies in the last 12 months felt they waited too long to receive them.
- Almost a quarter of all respondents (24%) felt they had not seen services often enough to meet their needs.
- Around six in 10 (59%) said they were 'definitely' given enough time to discuss their needs and treatment, and 28% said they did 'to some extent'.

Involvement

- Around half of all respondents (53%) who had agreed with someone what care they would receive were 'definitely' involved as much as they wanted to be in the planning of their care.
- Just over half (52%) of those who have been receiving medicines in the last 12 months were 'definitely' involved in making decisions about their medicines as much as they wanted to be.

- Half (50%) of respondents who had received NHS therapies in the last 12 months were 'definitely' involved as much as they wanted to be in deciding which therapies to use.

Communication

- Over a quarter of respondents (28%) indicated that they had not been told who is in charge of organising their care.
- Almost a quarter of people (24%) who had been receiving medicines in the last 12 months for their mental health needs had no discussion about the possible side effects.
- Two out of five people (41%) had not had the purpose of their medicines discussed with them fully.

Variation in different groups of people's experience

- People with more challenging and severe non-psychotic disorders, as well as those with complicated cognitive impairment and dementia disorders, consistently reported worse than average experiences.
- People receiving treatment for a first episode of psychosis reported better than average experiences in almost all themes, including crisis care (access), organisation of care, and support and wellbeing.
- People in the 18 to 35 age group reported worse than average experiences across 11 of 14 themes, and those aged 66 and older reporting better than average experiences across the same 11 themes.
- Those who had been in contact with NHS mental health services for less than a year and people who identified as heterosexual reported better than average experiences across many areas of care.

NHS Providers view

We welcome the publication of CQC's annual MHA report, and their intention to use it this year to share it observations and learning about the care and treatment of patients detained under the MHA at a time of pandemic while this is most relevant and useful.

It is testament to the hard work and dedication of mental health trust leaders and staff on the frontline that CQC found many of the services have coped well during the pandemic. We know COVID-19 has accelerated mental health trends and intensified the challenges facing mental health services as a consequence.

We welcome CQC referring to explicit examples of positive practice it saw within trusts. This will be helpful for other providers and their partners in the wider system to see and to learn from. We also welcome the report highlighting the urgent need for capital investment in the mental health estate. We agree that while the most recent announcement of funding to eradicate mental health dormitories is welcome, this is only a first – and long overdue – step towards making mental health facilities truly fit for purpose.

We also welcome the publication of CQC's 2020 Community Mental Health Survey. The findings of this survey will help add to NHS providers' understanding of the experiences of people who use their services and to make the improvements needed, whilst continuing to navigate the next phases of the pandemic and significant increases in mental health demand now as well as over the longer term.

It is concerning that people are reporting poor experiences for accessing care, support and wellbeing, and crisis care. These findings highlight the significant pressures facing core community services. We know these services have suffered from a lack of investment in recent years and this has had a significant impact on the quality of services and people's access to them as a result. It is heartening to see that, despite these challenges, a significant majority of people were positive about services' organisation of care and the level of dignity and respect they were treated with.

CQC has advised that the survey findings appear to have been affected by people's experience of care during the pandemic. We know COVID-19 has presented mental health trusts with significant new, as well as intensifying existing, challenges. As we set out earlier this year, services have been required to quickly adapt in order to effectively prepare services to deal with coronavirus patients, while also ensuring people's non-COVID needs were still being met during the pandemic.

Significant increases in investment have been committed to in order to support the development of new models of community care. It is vital that the extra demand for mental health care and support prompted by the pandemic is taken into account and the rapid expansion in services required to meet this demand is fully and promptly funded on a sustainable basis. Adequate investment to maintain and build on the steps being taken to grow the mental health workforce is also crucial. National policy must not only focus on increased support for mental health, but public health and social care too.

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