



Consultation response CQC: next phase of regulation

Introduction

VODG (Voluntary Organisations Disability Group) is a national charity that represents leading not-for-profit organisations who provide services to disabled people in ways that promote independence, choice and control. Our members work with around a million disabled people, employ more than 85,000 staff and have a combined annual turnover in excess of £2.5 billion. Though diverse in terms of their size, history and individual strategies, our members share common values. These are clearly discernible through work that promotes the rights of disabled people, approaches to citizenship, user choice and control and in successfully delivering person-centred services.

VODG works on behalf of members to influence the development of social care policy, build relationships with government and other key agencies, promote best practice and keep members up to date on matters that affect service delivery. Our overarching aim is to ensure that VODG members, working in partnership with commissioners, people who use services and their families can provide progressive, high quality and sustainable services that reflect *Think Local, Act Personal*¹ principles, uphold rights and meet the requirements of disabled people. We are members of the CQC Adult Social Care Trade Associations meeting, the Adult Social Care Coproduction Group and the Cross Sector Advisory Group.

VODG welcomes the opportunity to submit this response to CQC's consultation on the next phased of regulation.

1a. Do you think our set of principles will enable the development of new models of care and complex providers?

Agree

1b. Please tell us the reasons for your answer.

We agree with the principles but are unclear about why they sit in the section about regulating new models of care and complex providers. We believe that principles describe values in action and therefore are relevant across all CQC's regulatory activity. We particularly welcome the principles of proportionality, transparency and minimizing complexity and the commitment not to penalize providers that take over poor services in order to improve them. We believe it would be fair and consistent to apply these principles in CQC's dealing with all regulated services.

¹ Think Local, Act Personal www.thinklocalactpersonal.org.uk/



2a. Do you agree with our proposal that we should have only two assessment frameworks: one for healthcare and one for social care (with sector-specific material where necessary)?

Agree

2b. Please tell us the reasons for your answer.

This makes very little difference to most adult social care services as the assessment frameworks for community adult social care and residential care are already very closely aligned. Due to the clinical role of hospices we agree that they should be assessed under the healthcare framework.

3a. What do you think about our proposed changes to the key lines of enquiry, prompts and rating characteristics?

We find the definitions of “caring” much clearer and more robust. We welcome this.

We are surprised at the inclusion of “sustainability” in *W4 How does the service continuously improve and ensure sustainability?* Providers will most probably think of sustainability in terms of income although all the prompts are about improvement. We suggest a revised key line of enquiry:

W4 How does the service continuously improve?

VODG is currently working with NHS England on STOMP: stopping the overmedication of people with learning disabilities, autism or both. With this in mind, we would like to see a clearer relationship between *S4.5 How does the service make sure that people’s behavior is not controlled by excessive or inappropriate use of medicines?* and the ratings characteristics. We propose the following sentence for inclusion in the ratings characteristics of a good service:

The service works closely with prescribers to ensure that people’s behavior is not controlled by excessive or inappropriate medication and promotes alternative interventions that support people to manage behaviour which others may find challenging.

3b. What impact do you think these changes will have (for example the impact of moving the key line of enquiry on consent and the Mental Capacity Act from the effective to the responsive key question)?

We believe that the proposals do not fulfil CQC’s stated intention not to “raise the bar” or make it more difficult for providers to achieve a good or outstanding rating. The inclusion of additional requirements inevitably raises the bar. We think these requirements are reasonable but that it is important to be honest and realistic about their impact, which may be an increase in services with a “requires improvement” rating.

We are concerned that the number of changes that are proposed may result in difficulty in benchmarking ratings against the first round of inspections.



It would be helpful if the spring consultation could include information on how CQC will manage the transition to the revised inspection framework as this is not clear. Providers are looking for assurance that this will be done fairly. Some of our members have voiced concern about how CQC will deal with focused inspections relating to KLOE's that have moved from one key question to another. For instance, at a full inspection a service is rated "good" overall but "requires improvement" for "consent to care and treatment" (currently under "effective"); if the service then receives a focused inspection under the revised framework but is found still to require improvement in this area (now under "responsive"), will the service then have a "requires improvement" rating for two key questions and thereby an overall rating of "requires improvement"?

4. We have revised our guidance *Registering the right support* to help make sure that services for people with learning disabilities and/or autism are developed in line with national policy (including the national plan *Building the right support*). Please tell us what you think about this.

Underpinning strategy and evidence base

VODG is a contributor to the Winterbourne View concordat and supports the development of small, community-based alternatives to assessment and treatment units (ATU's). We acknowledge that *Registering the right support* is consistent with the national plan *Building the right support*², the service model for commissioners³ and NICE guidance⁴ on supporting adults on the autistic spectrum. However, these documents describe a service model for a relatively small but significant group of people with learning disabilities and/or autism who display behavior that challenges.

We acknowledge that this group of people have not been well-served and that there needs to be a substantial shift within the sector to remedy this. However, we do not believe that this justifies prescribing a one-size-fits-all model for all future learning disability services. Local authorities through their market shaping responsibilities are required to ensure the availability of a range of services so that people can exercise their right to choice under the Care Act 2014.

People with learning disabilities make up a much larger population group than those included in the above reference documents. They have a right to make choices about their lifestyle, where they live and the type of support they want. This becomes less possible if there is only one homogenous service model on offer.

At a meeting between VODG members and CQC on 7 February 2017, we were told that a decision had been taken to apply the national plan *Building the right support* to

² NHS England et al (2015) *Building the right support*. Accessed:

<https://www.england.nhs.uk/wp-content/uploads/2015/10/ld-nat-imp-plan-oct15.pdf>

³ NHS England et al (2015) *Supporting people with a learning disability and/or autism who display behaviour that challenges, including those with a mental health condition*. Accessed:

<https://www.england.nhs.uk/wp-content/uploads/2015/10/service-model-291015.pdf>

⁴ National Institute for Health and Care Excellence (2016) *Autistic spectrum disorder in adults: diagnosis and management*. Accessed: <https://www.nice.org.uk/guidance/cg142>



all learning disability services. This information is not publicly available or referenced in *Registering the right support*. We were told that CQC would provide VODG with evidence of when, how and by whom this decision was taken and its status, and that we would receive this in time to inform our response to this consultation. We have not received this.

Whatever the application of the national strategy this does not in itself change the evidence base⁵, which reflects the needs of people on the autistic spectrum, with or without a learning disability, rather than the learning disability population as a whole.

We are interested that CQC has taken the decision to issue registration guidance for learning disability services, but not for services for other groups of people, yet the guidance itself provides no explanation for this decision. Does CQC intend to issue equivalent guidance for services for older people, for instance?

The registration of new and existing services

We would welcome a willingness by CQC to work with providers at an early stage in the development of new services, so that they can make better informed decisions about investment and develop new services with increased confidence that these will secure registration. Therefore we support the principle that by defining what good support looks like, CQC is assisting providers to develop services that will secure registration and that are based on a model of care which will result in a rating of good or outstanding. However, the guidance itself is inconsistent with the results of CQC inspections. We could list many examples, so here are just a few from VODG members:

Provider: FitzRoy
Service: Huws
Service type: Nursing home for 14 people with learning and physical disabilities
Rating: Good overall with outstanding for caring

Provider: Camphill Village Trust
Service: Delrow Community
Service type: Supported living for up to 55 people in nine houses on one site
Rating: Good

Provider: Mencap
Service: Aeolian House
Service type: Care home for up to eight adults with learning disabilities
Rating: Good

So, each of the above services is registered, delivers good care and thereby satisfies the regulations, yet none of them would be registered as a new service. This is nonsensical, contradictory and unfair. Furthermore the guidance does not make

⁵ National Institute for Health and Care Excellence (2016) *Autistic spectrum disorder in adults: diagnosis and management*. Accessed: <https://www.nice.org.uk/guidance/cg142>



clear if or when it will apply to existing services or to a change of provider. Individuals could inadvertently be made homeless if the guidance is applied to existing services that do not meet its requirements.

Operational considerations

Providers are concerned about the impact of the guidance on their ability to improve existing services, for instance where current buildings need replacing but the service model does not satisfy the proposed registration guidance. As buildings degenerate, this is likely to result in some people living in an increasingly undesirable environment. This applies to a range of providers but is a particular concern for intentional communities. At our meeting with CQC on 7 February there was a clear indication that CQC is prepared to hold a separate meeting with providers of intentional communities to discuss this matter and we accept this offer on behalf of our members.

Providers are also concerned about the impact of the guidance on their ability to make changes to registration. For example, a VODG member has a domiciliary care service and a residential service for 19 people in 6 houses co-located on the same site. Their intention is to move the office for the domiciliary care service to a different location so that it is completely separate from the residential service. However, this would entail re-registering the residential care service and they are concerned that it does not meet the proposed registration guidance. This could result in the provider unnecessarily keeping the office for the domiciliary care service on the residential site.

It is unclear why the guidance includes opening a new location for supported living in the section heading on p11, although there is no further reference to supported living in the document. We believe this should be removed. CQC has no regulatory responsibility for the properties from which supported living services operate. While we are aware that there are plans to make changes to the regulation and inspection of supported living services, there has been no discussion about the possibility of CQC regulating people's own homes and VODG would strongly oppose such a move.

We acknowledge that people have been placed in ATU's at a great distance from families and this is unacceptable. However, we suggest that the importance afforded to the proximity of family members should not be assumed (p11) but should be based on the preferences of people using services.

Our members are concerned about the impact of a six-person limit on their ability to design new services around the needs of a group of people and the sustainability of those services. For instance, two four-person flats may meet the needs of a group of people but this model would not satisfy the registration guidance. In the current economic climate the viability of services supporting six people or less is very difficult to achieve; while we acknowledge that the sector should not be developing institutional settings, a strict limitation to six places may result in fewer services being developed than are needed.



A way forward

There is a significant degree of concern among providers about the basis, content and application of *Registering the right support* and we suggest that much of this could have been averted had a coproduction approach been applied to developing this guidance. Providers remain committed to a collaborative approach and are prepared to work with CQC on its approach to the registration of learning disability services.

We also believe that a thorough impact assessment is needed which considers:

- The operating costs of services with 6 or fewer places, including the impact of voids, and taking into account CQC's requirement that services demonstrate sustainability
- The implications for existing services with more than 6 places
- The application of the guidance⁶ which is currently in place, including its impact on local capacity
- The role of commissioners in the development of new services and the boundaries between the role of commissioners and that of CQC
- The anticipated impact on both charitable and for-profit investment in new services

Finally, on behalf of VODG members we would ask CQC to fulfil its offer to set up a meeting to discuss the registration of services within intentional communities.

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VODG (Voluntary Organisations Disability Group)
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⁶ Care Quality Commission (2016) *Registering the right support*. Accessed:
http://www.cqc.org.uk/sites/default/files/20160216b_Registering_the_right_support.pdf