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Step change

Regulatory reset

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Amanda Narkiewicz, healthcare regulatory partner at Mills & Reeve, takes a closer look at the findings from the two recent reviews into the Care Quality Commission



Regulatory reset

Over the next six months, the Care Quality Commission (CQC) has been told to improve operational performance, rebuild expertise and take steps to foster stronger relationships with providers and the wider health and social care sectors to restore credibility, as part of recommendations in two landmark reviews.

Reviews of the CQC led by Dr Penelope Dash, chair of North West London Integrated Care Board, and Professor Sir Mike Richards, former chief inspector of hospitals, both highlight significant failings in the internal workings of the regulator, which have led to ‘substantial loss of credibility’ within the health and social care sectors. Their full reports were published on 15 October.

The Dash review

Following an interim review in July, Dr Dash’s report highlights CQC’s transformation programme involving

major organisational restructure, new IT systems and a new single assessment framework (SAF) to make assessments simpler and more insight-driven is not delivering the intended benefits.¹

Its failings have led to a deterioration in its ability to identify poor performance and support a drive to improved quality.

The review outlines the necessary changes to start improving CQC operational performance.

Findings

Dr Dash calls for a rapid turnaround of CQC and identifies ten key challenges. They are summarised around the themes laid out in Table One.

Other areas for review

Four areas have been raised with the Dash review team but not yet considered in detail:

- 1 The government recently announced that Ofsted would end use

of **one-word ratings**. The review says it would be reasonable to consider their continued use in health and social care.

2. **CQC finances**, both how CQC is funded and the costs of running it effectively and efficiently.
3. **The need to ensure the NHS Federated Data Platform** results in a single ‘data lake’ across the health and social care sectors.
4. **The wider regulatory landscape and the burden of regulation**, including the relationship between CQC and the NHS England oversight framework.

The Dash review’s recommendations

The CQC said it is taking ‘rapid action’ in response to the report, and has appointed a new chief executive, Sir Julian Hartley (see Table Two).

TABLE ONE
CQC’S TEN KEY CHALLENGES, DR PENNY DASH

1	Operational performance is poor, leading to backlogs and outdated ratings. Just 6,700 inspections and assessments were carried out in 2023, compared to 15,800 in 2019.
2	Poorly performing new IT systems have hindered CQC’s ability to roll out the SAF causing considerable frustration and time loss for providers and CQC staff.
3	Month long waits for reports following assessments and poor quality of reports , which limit the credibility and impact of assessments for providers.
4	CQC’s 2023 internal restructuring led to a loss of credibility in the health and care sectors due to diminished sector expertise and reliance on generalists, resulting in missed opportunities for improvement.
5	There are concerns around the SAF and its application from the way it is described and laid out on the website to the way it has been communicated. The 117-page document it is set out in has been described by CQC staff as “woolly” and “unwieldy, hard to use, difficult to comprehend and purport to cover all care services. The style is off-putting with the “we” and “I” statements.’
6	Lack of clarity around how ratings are calculated and the concerning use of aggregating the outcomes from previous inspections to calculate a current rating.
7	There are opportunities to improve CQC’s assessment of local authority Care Act duties.
8	Integrated Care System assessments are in early stages of development with rollout paused due to concerns with methodology.
9	CQC could do more to support improvements in quality , such as through the description of best practice and greater sharing of innovative models of care delivery.
10	There are opportunities to improve the sponsorship relationship between CQC and the Department of Health and Social Care to support high-quality, accountable, efficient and effective services.

TABLE TWO REVIEW RECOMMENDATIONS	CQC RESPONSE/COMMITMENT
<p>Rapidly improve operational performance, fix the provider portal, and improve the quality and timeliness of reports.</p> <p>Rebuild expertise within the organisations and relationships with providers.</p>	<p>Ensure they have the right systems and tools in place to support its regulatory activity. While the CQC work to fix its regulatory platform, it is exploring options for delivering assessment activity away from the current systems, so that it can assess, rate and publish reports rapidly.</p> <p>Reorganise around sector expertise, with at least three chief inspectors to lead on regulation and improvement of hospitals, primary care and adult social care services. Consideration will also be given to whether a fourth chief inspector is needed to lead on regulation and improvement of mental health services.</p>
<p>Ensure SAF is fit for purpose, with clear descriptors and a greater focus on effectiveness, outcomes, innovative models of care delivery and use of resources.</p>	<p>Modify the current assessment framework to make it simpler and ensure it is relevant to each sector. It will retain the five key questions (safe, effective, caring, responsive and well-led) across all sectors, but will amend the 34 quality statements to ensure clarity and remove duplication. CQC will stop scoring individual evidence categories.</p>
<p>Clarify how ratings are calculated and make the results more transparent. Improve local authority assessments.</p>	<p>CQC will make scoring of evidence more transparent and will strengthen its focus on nationally agreed priorities.</p>
<p>Improve local authority assessments.</p>	<p>Local authority assessments will continue with ongoing improvements and continued engagement with the health and care sector.</p>
<p>Pause ICS assessments.</p>	<p>Pause assessments of ICSs for six months to free up capacity for other priorities.</p>
<p>Strengthen sponsorship arrangements to facilitate CQC's provision of accountable, efficient and effective services to the public.</p>	<p>Work with provider representatives to improve our processes and strengthen arrangements for peer involvement of expert reviewers and advisors.</p>

Prof Richards' review of CQC's SAF

Commissioned by the CQC to complement the Dash review, Prof Richards was asked to conduct an internal review of the SAF and its implementation.

Prof Richards' findings are entirely in line with the Dash review.² He finds far fewer inspections have been carried out than in previous years, publication of inspection reports have been seriously delayed, and providers have expressed serious concerns about both the inspection process and the quality of the reports.

Other findings include:

- The inspection framework is far too complex
- The provider portal is harming the working lives of CQC staff and providers
- Inspection teams are insufficient to deliver the duties of the regulator within reasonable timescales
- Health and social care providers have lost the sense of partnership with CQC
- Quality assurance processes have been downgraded, undermining consistency of judgements

Prof Richards' recommendations are far reaching. He suggests CQC should revert to the previous structure, abolish most of the SAF including the evidence categories and scoring systems, and only retaining some aspects.

As for the prioritisation of future inspections in adult social care, Prof Richards says priority should be given to reducing delays in registration and to re-inspecting services previously rated as 'requires improvement' some years ago. Further consideration should be given to methodology, with the selection of a standard number of quality statements for each inspection.

In its next phase of its recovery, CQC will work with:

- **Professor Vic Rayner and the Care Provider Alliance (CPA)** to support CQC in gathering further feedback from adult social care providers on the use of the assessment framework. This will build on the findings of the review from Prof Richards.
- **Prof Richards and the CPA** to help determine what good regulatory assessment looks like, what to expect from an inspection and what the new reports for inspection will look like.

Reviews in the pipeline

Health and social care secretary Wes Streeting has asked Dr Dash to conduct two further reviews moving her focus from operational effectiveness to patient safety and quality.

The first review will examine the roles and remits of six key organisations and make recommendations on whether patient safety could be bolstered through a different approach. A further review will focus on quality and its governance.

Standing back

These reports validate the concerns raised by care providers and other stakeholders in the sector. However, while the CQC has accepted the findings and committed to address the reports' recommendations with 'urgency' – the real test will be in the implementation.

NOTES

1 <https://www.gov.uk/government/publications/review-into-the-operational-effectiveness-of-the-care-quality-commission-full-report/review-into-the-operational-effectiveness-of-the-care-quality-commission-full-report>

2 <https://www.cqc.org.uk/publications/review-cqcs-single-assessment-framework-and-its-implementation>