NHS Clinical Commissioners response: CQC Proposals for fees from April 2017 for all providers that are registered under the Health and Social Care Act 2008

11 January 2017

I. NHS Clinical Commissioners

NHS Clinical Commissioners (NHSCC) is the membership body of Clinical Commissioning Groups (CCGs). Established in 2012, we now have over 91% of CCGs in membership. We therefore offer a strong national voice for our members on a number of policy issues and support them to be the best they can in order to commission effectively for their local populations.

We welcome the opportunity to provide a response to CQC Proposals for fees from April 2017 for all providers that are registered under the Health and Social Care Act 2008. To develop this response we received feedback from members of our Finance Forum, which represents CCG CFOs, and the NHSCC Board.

II. Overall Comments

Our response is focused on proposal one in the consultation document as this has the most relevant impact for our membership. We do not have specific comments to make on proposals two and three.

As we have highlighted publicly in the past, we believe the Care Quality Commission should demonstrate that its registration and inspection processes offers the best value for money in terms of performance and outcomes, and that the fees levied to health and care providers are representative of a proportionate and cost effective regulatory regime. We do not believe this is currently the case, as demonstrated by the progressive shift to a full chargeable cost model that last year resulted in a fees increase. We now see that CQC proposes that the 2017/18 fees rise again for most providers, as set out in your consultation.

It is clear that these increases would have a particularly negative impact on general practice, as well as system-wide. For example, your proposals for next year include a 75% fee increase to be borne by single and multiple location general practices – in fact, the greatest increase by provider type. This is of significant concern to us when the health and care system as a whole is already under great financial pressure and CQC’s regulatory regime and operational processes are yet to be proven as value for money.

As we highlighted when regulatory fees were first proposed, our members are concerned about the impact that progressive increases will have, such as the further increase for 2017/18. Ultimately cost pressures in the system, including in this area, do affect patient care because
there are not unlimited sums of money in the system and a cost pressure to one part of the NHS affects the whole system.

Our concerns are heightened because we remain unconvinced that the CQC inspection regime is demonstrating value for money, and we believe CQC has much more to do to prove the contribution it makes to the standards of care being delivered across the health and care system. We particularly believe the impact that the proposed increases for 2017/18 on smaller GP practices and providers of community care is unreasonable and disproportionate.

III. Specific comments

Financial pressures
The financial situation within the NHS is now at a critical stage with acute providers reporting a deficit of £1.85bn at the end of 2015/16, the largest aggregate deficit in NHS history,¹ an escalating number of CCGs reporting overspends in the current financial year², and the closure of care homes and GP practices that can no longer afford to run as viable businesses with the current available finances. Against this backdrop the proposal to increase CQC fees for the health and care providers will add a further cost increase to the system which could affect some already struggling providers adversely.

While the principle of requiring regulatees to pay for statutory regulation from CQC may be sound, it introduces a new direct cost pressure on organisations delivering front-line health and care. Although the attempts by the Department to mitigate against some of these pressures in general practice in 2016/17 was helpful, it is unclear whether the same support will be forthcoming in the 2017/18.

Value for money
As highlighted in the consultation document, a key component of the strategic context for setting fees should be that value for money is demonstrated to those organisations that are required to meet these costs.

The House of Commons Public Accounts Committee was clear in December 2015 in saying that operationally CQC was not performing to the required standard. Among a number of other concerns, they noted a lack of consistency and accuracy of draft reports and excessive time taken to finalise these reports, and a failure to take into account and act on intelligence from patient’s carers and staff. It is vital that CQC can demonstrate to all its stakeholders that these issues have or are being resolved and that there is a strong culture of continuous improvement throughout the organisation. We have yet to be persuaded that this is the case.

In January 2016, in response to your 2016/17 Fees Consultation, we highlighted that the CQC should take account of the ongoing need for increased efficiency in the NHS as a whole and seek to carry out leaner inspections. Indeed, feedback from our members still indicates a continued perception that there is insufficient experience amongst general practice inspection teams about the realities of primary care. We are also told that during inspections there can be a tendency for CQC teams to focus entirely on ‘minutiae’ rather than also giving due regard

¹ King’s Fund - Deficits in the NHS 2016, July 2016
² 93 as per NHS England Board papers Dec 2016
to longer-term vision. This can create a perception that inspections are not adequately tailored to general practice. We understand through our involvement in the GP regulation board that steps are being taken to develop an improved regime, however, this must be done at a pace which matches the rate of change in the NHS currently and that is proportionate to the current funding challenges that are being experienced.

In NHS England’s Five Year Forward View, and as a result of the government’s subsequent funding settlement, the NHS is required to make considerable efficiency savings in order to ensure a balanced budget in 2020/21. In this context we are looking to the CQC to also demonstrate efficiency savings. However, a failure to decrease the costs for inspection of NHS Trusts, residential adult social care or general practice - the three largest costs for the CQC budget - suggests there is much more work for the CQC to do to show it is minimising the costs of regulation. We note that the senior leadership of CQC in a recent House of Commons Health Committee hearing felt that increased efficiency within the organisation could be achieved through “…changing both the frequency and the nature of inspections” and “…making much greater use of digital technology.”

We welcome such developments where they do not undermine the robustness of the regulatory framework.

**Effect on service**

The impact that the fees increase will have on providers and the frontline care that they provide should not be underestimated. A large trust with a turnover of £225m-£325m under the two year scheme will experience an increase in charge from 2016/17 levels of £79,409. Equating to approximately three Band 5 nurses. Alternately these pressures will be directly felt by CCGs as providers will include them in the baseline of provider contracts, thereby acting as a pressure to already overstretched CCG budgets. These pressures are having a considerable impact on a system that is already stretched and seeking to transform the way in which it delivers health and care services.

**Impact on general practice and community social care**

The proposed fees increases have a disproportionate impact upon smaller general practices and on community care providers. This is because the proposed fees are a significantly higher percentage of overall turnover for these providers when compared to large trusts. For example, the average GP practice would be required to pay a fee of approximately 0.5% of turnover, whilst an average trust’s fee is 0.08% of turnover. For rural practice with 3 separate branches this percentage rises further to 1.64%.

In our response to the 2016/17 CQC Fees consultation we said: “The effect of this will be to increase variation in service at the expense of the best interests of patients. This is both inequitable and unreasonable at a time when CCGs are trying to build more capacity into primary and community care.” The fees increase this year, which visibly impacts GP practices more, means we do not feel that the concerns highlighted by our members in our previous response have been given due regard in the setting of fees for 2017/18. We would like the

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3 Question 93, [Oral evidence: Care Quality Commission accountability hearing, HC 778](https://publications.parliament.uk/pa/cm201617/cmselect/cmhc/778/77801.pdf), December 2016


5 NHS Clinical Commissioners, [NHS Clinical Commissioners response: CQC Regulatory Fees – Proposals for fees from April 2016 for all providers that are registered under the Health and Social Care Act 2008](https://www.cqc.org.uk/sites/default/files/2017-04/cqc_reg fees response.pdf), January 2016
CQC to explain to us the justification for this and share any impact assessment that has been conducted with us.

IV. Conclusion

We maintain that there must be recognition by the CQC that a cost to one part of the health system that provides services to the NHS is inevitably a cost to the whole NHS. Increasing regulatory costs to providers simply adds to the existing financial pressure in the system, including those increasingly being faced by Clinical Commissioning Groups. In this light, we believe the CQC should demonstrate the same continuous improvement culture it endeavours to embed across the health and care system by driving up efficiencies, and driving down costs, within its own organisation.

We welcome the ongoing engagement and stakeholder meetings that our members have with the CQC as these allow us an opportunity to highlight operational concerns directly with colleagues. However, in relation to the contents of this consultation we call on CQC to take the following action:

- Freeze fees levels at 2016/17 rates for 2017/18.
- Rigorously evaluate its costs and fees model to achieve cost-efficiency and ensure fees to service providers are minimised.
- Publish a full impact analysis of its fees model.
- Conduct a re-appraisal of the proposed fee structure to develop a system that is more reasonable and proportionate for the health and care system.

We look forward to receiving a response to our members concerns.

For more information

If you would like any further detail on our response please do not hesitate to contact our Head of Policy and Delivery, Claire Herbert at c.herbert@nhscc.org or Policy and Networks Officer, Thomas Marsh at t.marsh@nhscc.org.