Nottinghamshire County Council

Report to Adult Social Care and Health Committee

4th February 2013

Agenda Item: 5

REPORT OF THE CORPORATE DIRECTOR, ADULT SOCIAL CARE, HEALTH AND PUBLIC PROTECTION

NATIONAL POLICY DEVELOPMENTS ON MONITORING AND REGULATING CARE STANDARDS

Purpose of the Report

1. To provide an update and overview of recent national policy developments relating to the monitoring and regulation of care standards, and to request support for a Council response to the consultation on market oversight of adult social care.

Information and Advice

The State of health care and adult social care in England in 2011/12

2. In November 2012 the Care Quality Commission (CQC) published their report to Parliament on **The state of health care and adult social care in England in 2011/12.** This draws on evidence from the CQC's register of care providers, inspections, experiences of people who use services and national statistics. It also includes findings from the CQC's themed inspections which in 2011/12 included dignity and nutrition for older people in acute hospitals, and services for people with learning disabilities.

3. In summary, the CQC found that the 'increasing complexity of conditions and greater co-morbidities[1] experienced by people are impacting on the ability of care providers to deliver person-centred care that meets individual's needs'.

4. The report highlights the nature of the current population and how this impacts on the shape of the health and social care sector. Figures show that by mid-2011 England's population was at its highest ever level, at an estimated 53.1 million. Within this, 8.7million people were aged 65 or over and 1.2 million were 85 or over. As the population ages, there is a rise in health conditions for which age is a major risk factor, such as dementia. There are now 800,000 people living with dementia across the UK. It is forecast that one in three people over 65 will develop dementia, which means providers will have to develop increasingly specialised skills to care for people. In addition, there are more and more people living with long-term conditions such as diabetes, heart disease and respiratory diseases as well as cancer. One in four people will experience mental health problems at some point in their lifetime.

[1] Two or more coexisting medical conditions.

5. The report also identifies changes within the health and social care landscape, which include increased NHS day treatment, people spending less time in hospital and more recuperation at home, and provision of NHS services through independent sector providers.

6. In the adult social care sector there has been a decline in residential care services, and new types of support and provision have been developed that enable more people to live at home for longer. There has been an increase in extra care housing, and short-term nursing care in homes replacing extended stays in hospital. Reablement services have been extended, and are now a mainstream part of the support offered by many local authorities. The provision of home care rose significantly in the year: there were 6,830 domiciliary care agencies registered with the CQC; an increase of 16% on 2010/11. At the same time, the number of residential care homes registered with the CQC decreased by 2.5%. The report also recognised the increasing number of people who are now funding their own care, and the number receiving self directed support – a rise of 40% on the previous year, leading to a growth in more personalised care services.

Healthcare

7. In the NHS the themed inspection programme looked at dignity and nutrition for older people in hospitals and found that 90% met the required standards. Where poor care was identified three things were found to underpin this:

    - cultures in which unacceptable care becomes the norm
    - an attitude to care that is 'task-based', not person-centred
    - managing with high vacancy rates or poorly deployed staff.

8. The CQC identified significant problems within independent services providing longer term care for people with mental health problems and learning disabilities, and these services performed badly in comparison with the NHS. They found that many people were in assessment and treatment services for disproportionate periods of time, with no clear plans for discharge and too many people were in services away from their families and home.

9. The CQC also took a particular look at discharge arrangements and found that patients discharged over the weekend are at significantly higher risk of being readmitted as an emergency. This illustrates the different levels of service provision over the weekend, either in the hospital setting or the available social care services.

Social Care

10. The CQC report notes that the increased complexity of people's social care needs seems to be having a direct impact on the quality of care they are finding through social care inspections. The poor performance in respect of medicines management continued across all types of social care setting, but was most evident in nursing homes, which proportionately have to deal with the more complex health needs. Worryingly, the same picture emerges when looking at the respect and dignity of people in social care settings - while residential care homes and domiciliary care agencies performed relatively well on providing respectful and dignified care, with 93% and 95% of services meeting the standard in 2011/12, the performance of nursing homes was less positive at 85%.

11. Information from the CQC's inspections shows that those services that maintain people's dignity and treat them with respect all have a number of things in common: they recognise the individuality of each person in their care, and help them to retain their sense of identity and self-worth; take time to listen to what people say; are alert to people's emotional needs as much as their physical needs; and give them more control over their care and the environment around them.

12. In the CQC's themed review of learning disability services, only 63% of the 32 care homes inspected as part of the review met the general standard on care and welfare and only 59% met the standard on safeguarding. In the review, the CQC saw some very positive examples of people being involved in their care and being given control over their care plans. Where there were problems, the most common issue was a lack of person-centred planning - with little information about people's individual preferences and likes and dislikes about how care is delivered.

13. Ensuring that people in care homes are helped with the food and drink they need is central to respectful and dignified care. There were some concerns about this in nursing homes and residential care homes. Inspections found that 80% of nursing homes and 89% of residential care homes inspected met this standard in 2011/12. Given that this is so vital to good care - particularly for older people - this is a real concern for the CQC, and will be the focus of a targeted inspection programme of 500 care homes in 2012/13. Findings will be reported in early 2013.

14. The increased co-morbidity and complex care needs of people requiring social care – for example managing people with dementia and cancer in the same setting – has a direct impact on staffing levels and in particular the increasingly specialist skills, training and support that care staff need. The CQC found that a number of services across the social care sector were not able to support staff with proper training, supervision, appraisals and development opportunities in line with the national standards. Of those inspected in 2011/12, 76% of nursing homes, 84% of residential care homes and 85% of domiciliary care agencies met the relevant standard.

15. As set out in its document - **The Next Phase** - published in September 2012, the CQC's intention is to make more use of its unique sources of information, and the information held by others, to drive improvement in how services are provided and to promote best practice. It intends to do this by being clear about good care and poor care; and reporting on the state of the different sectors, identifying problems and challenges in how services are provided and commissioned and recommending action.

16. The State of Care report for 2012/13 and future Market Reports will incorporate and synthesise the CQC's findings from the following pieces of work that will be published in the coming months:

    - The themed inspection programme examining the care given to people in their own homes by 250 domiciliary care providers
    - The themed inspections of dignity and nutrition in 500 care homes and nursing homes
    - The follow-up inspection programme looking at issues of dignity and nutrition in 50 NHS hospitals
    - Reviews of information and data on three topic areas:

- dementia care during admissions to hospital
- the experiences of people waiting for NHS treatment
- the physical health needs of people with a learning disability.

17. In addition, the CQC intends to include the findings of some of the first inspections it carries out in GP surgeries and practices.

Market Oversight in Adult Social Care

18. In the Care and Support White Paper **Caring for our Future: Transforming Care and Support**, the Government was clear it is not acceptable for people to be left without the care and support they need if a provider fails and goes out of business. Under current legislation no-one would be left without the care and support they need should a provider fail. The Government is now considering to what extent further measures are necessary to manage provider distress and failure to support a smooth transition for people who depend on care services.

19. The Government has published a consultation document, **Market Oversight in Adult Social Care.** Responses are required by 1st March 2013 and will be made available before or alongside any further action in this area, such as possible legislation.

20. The Government believes that there is a need for greater reassurance to people receiving services which are likely to close or transfer to new ownership. The primary motivation for any change is to minimise the risk of a negative effect on the health and wellbeing of care users in the event of a provider failing financially and ceasing to provide services.

21. Recent events have highlighted the need to review whether or not current mechanisms to oversee the social care market are sufficient, and whether additional measures are necessary to protect service continuity for care users. The difficulties faced by Southern Cross Healthcare in 2011 demonstrated that there are specific challenges associated with monitoring and managing transition and continuity of service if a provider that is operating across England with highly complex financial structures fails. The National Audit Office (NAO) recommended that the Department of Health should determine where current oversight was insufficient and where more central oversight is necessary.

22. The Government intends to provide a new legislative provision to apply specifically in the case of provider failure. It will impose a duty on local authorities to meet the needs for temporary care and support of any person whether self-funded and whether in receipt of residential or non-residential care if they have urgent unmet needs as a result of provider failure. Such a provision will extend and strengthen existing powers and duties to provide care and support and provide clarity for people who are receiving care at the time their care provider fails.

23. The Government believes that there is a case for additional oversight of those care and support providers that are above a risk threshold because of concern about their ability to ensure continuity of care, due to the factors listed below:

- size and scale of the organisation
- regional or sub-regional geographical concentrations (market-share) or
- highly specialist services with a wide catchment area of dependency.

24. The favoured proposal is to have stronger requirements on such providers to disclose relevant information to a regulator, and for them to have robust plans in place in case they fall into distress. This would require an effective regulator to oversee and enforce this process, whilst ensuring that in the event of exit from the market there is co-ordination and information sharing between all parties, supporting the work of local authorities. It is likely that the regulator would be the Care Quality Commission or Monitor[2].

25. Providers meeting a certain risk threshold would be required to provide financial information and other key metrics which would be similar to information required by investors, lenders and boards. The precise nature of the information required would be determined by the regulator in line with the Department of Health. Possible metrics may include: occupancy rates, capital investment in facilities, numbers of homes embargoed by local authorities, turnover of registered managers and compliance with the CQC's essential standards of quality and safety.

26. The regulator would analyse the data and perform a further risk assessment. Where a high risk to service continuity was identified the providers would be required to:

- prepare scenario-based contingency plans for the regulator to approve
- take action, or demonstrate what action would be taken, to protect continuity of quality services during any period of distress and transition, and
- submit information to support continuity of service in distress, e.g. regarding business structure and operating costs.

27. Adult Social Care, Health and Public Protection is planning to submit a response to the consultation document. Because the response is required by the 1st March 2013, it is not possible to bring the draft response to this Committee. It is therefore, proposed to delegate the response to the Corporate Director for Adult Social Care, Health and Public Protection in consultation with the Chairman and Vice-Chairman of the Adult Social Care and Health Committee. To help preparations of the response, it is proposed to set up a meeting involving Committee Members from all parties. The final consultation response will be shared with all Committee Members.

Other Options Considered

28. This is not applicable as the report is for information only.

Statutory and Policy Implications

29. This report has been compiled after consideration of implications in respect of finance, the public sector equality duty, human resources, crime and disorder, human rights, the safeguarding of children, sustainability and the environment and those using the service and where such implications are material they are described below. Appropriate consultation has been undertaken and advice sought on these issues as required.

[2] **Monitor** authorises and regulates **NHS** foundation trusts and supports their development, ensuring they are well-governed and financially robust.

Implications for Service Users

30. The proposals for increased market oversight are intended to provide greater protection and to help ensure continuity of care for people in residential and nursing home care and receiving community-based care.

Human Rights Implications

31. As already identified, the proposals for market oversight are intended to ensure and protect the human rights of people in residential and nursing home care.

Human Resources and Finance Implications

32. The proposed new legislative provision to apply specifically in the case of provider failure will impose a duty on local authorities to meet the needs for temporary care and support of any person whether self-funded and whether in receipt of residential or non-residential care if they have urgent unmet needs as a result of provider failure. This may have some human resources and financial implications for the local authority.

RECOMMENDATION/S

It is recommended that the Committee:

1) notes the content of the report.

2) supports the intention to produce a response to the consultation on market oversight of adult social care

3) delegates the response to the Corporate Director for Adult Social Care, Health and Public Protection in consultation with the Chairman and Vice-Chairman of the Adult Social Care and Health Committee

4) supports a meeting involving Committee Members representatives from all parties to help inform the response to the consultation.

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Constitutional Comments (LMc 09/01/2013)

33. The Adult Social Care and Health Committee has delegated authority within the Constitution to approve the recommendations in the report.

Financial Comments (CLK 23/01/2013)

34. The financial implications are contained within the body of the report.

Background Papers

None.

Electoral Division(s) and Member(s) Affected

All.

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