



Department
of Health

Scope of performance assessments of providers regulated by the Care Quality Commission

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Scope of performance assessments of providers regulated by the Care Quality Commission

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Providers of health and adult social care services registered with the CQC.

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Contents

Scope of performance assessments of providers regulated by the Care Quality Commission	3
Contents.....	4
Introduction.....	5
Policy background	5
Proposed changes to the scope of ratings.....	6
1 – Independent Community Health Service Providers	6
2 - Cosmetic Surgery Providers	8
3 - Independent ambulance services	10
4 - Independent dialysis units.....	12
5 - Refractive eye surgery providers	13
6 - Substance misuse centres	14
7 - Termination of pregnancy services.....	16
Regulatory impact on business.....	17
Equality impact.....	17
Consultation questions	20

Introduction

1. *Patients First and Foremost*, the Government's initial response to the Mid Staffordshire Public Inquiry¹, included a commitment to make "...hospital performance more transparent and easier to understand through a clear system of ratings." Section 46 of the Health and Social Care Act 2008 (as amended by the Care Act 2014) places a duty on CQC to carry out reviews, and assess and publish a report of its assessment, of the performance of providers of health and adult social care services. The assessment must be by reference to indicators of quality devised by the CQC and is provided by the CQC in the form of a rating.
2. Since the CQC began publishing ratings in October 2014, it has rated over ten thousand providers. The ratings have provided people who use services, their families and carers, with a clear assessment of the quality of care provided. The ratings have helped us to celebrate outstanding care and also to identify those providers who need additional support to improve the safety and quality of their services.
3. When ratings were introduced in 2014 the focus was on ensuring that the CQC provided ratings for those sectors where a rating would have the most benefit. This was limited to NHS Trusts and NHS Foundation Trusts, GP practices, adult social care providers and independent hospitals. The CQC has learned from the process of developing ratings for these sectors and the Government would like to see this learning applied to other sectors regulated by CQC.
4. This consultation document sets out our proposal to expand the scope of the CQC's duty to undertake performance assessments.

Policy background

5. Section 46 of the Health and Social Care Act 2008 (as amended by the Care Act 2014), allows the Secretary of State to require the CQC to carry out periodic performance assessments of the carrying on of regulated activities by all health and adult social care providers. To deliver assessments of all providers in health and social care would have been a significant undertaking for the CQC, as it would have had to develop different methodologies for many different sectors in a short space of time.

¹

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/170701/Patients_First_and_Foremost.pdf

6. The Government wanted to avoid overloading the CQC with having to develop methodologies for all provider types without first testing its new approach. Therefore under the Care Act 2014 those providers and activities which must be rated by the CQC must be prescribed in regulations. This approach provides flexibility and means the CQC can focus its reviews and assessments on those providers and activities which are of most interest or concern and it avoids overloading the CQC with the task of assessing the entire system.
7. As the CQC had already made significant progress in inspecting hospitals, GP practices and adult social care providers, the Care Quality Commission (Reviews and Performance Assessments) Regulations were made and limit the scope of ratings to just those providers. Focusing the scope in this way allowed the CQC to continue the development and testing of its methodologies for those sectors, to ensure that its approach was robust.

Proposed changes to the scope of ratings

8. The experience the CQC has gained from implementing ratings, combined with the positive reception to its approach, has given the CQC confidence in its ability to apply the ratings methodology to other sectors. Working with the CQC, the Department of Health has considered changes to the scope of the performance assessment regulations, to enable the CQC to rate additional provider sectors.
9. There is now a case to apply performance ratings to other sectors regulated by the CQC. In identifying these sectors we have considered whether a rating would be of value to users and commissioners of services and whether the CQC has the capacity to start rating the providers in 2016.
10. These proposals need to be considered alongside the regulation the Government introduced in April 2015 (regulation 20A of the Health and Social Care Act 2008 (Regulate Activities) Regulations 2014), which requires all providers who have been rated by the CQC, to display their rating at the premises where their services are delivered and on their website (if they have one)².
11. This consultation seeks your views as to whether it is appropriate for the CQC to undertake ratings of these sectors.

1 – Independent Community Health Service Providers

What are these services?

² <http://www.legislation.gov.uk/ukxi/2015/64/regulation/11/made>

Independent community health providers deliver a diverse range of services that are similar to those provided by the NHS, but are not provided by the NHS or by independent hospital services.

These providers work from a variety of community settings and in different locations, such as community hospitals, community clinics, schools, nursing homes and primary care settings, as well as within peoples' homes to provide services to children, families and adults.

Why do we want CQC to rate them?

We propose to amend the ratings regulations to bring independent community health service providers into scope, so that there is consistency in the availability of information on these services for both NHS and non-NHS providers.

1 - Community health providers	Strongly agree	Agree	Neither	Disagree	Strongly disagree
Is this sector one where a rating is necessary to help you make an informed decision about which service to use?					
Is there sufficient variation in performance across the sector for ratings to give a clear indication of which providers are good and which are poorly performing?					
Will ratings of this sector enable the public, patients and commissioners to draw meaningful comparisons with services in hospitals and other sectors already rated by the CQC?					

2 - Cosmetic Surgery Providers

What are these services?

These providers are registered with the CQC for the following surgical regulated activity:

‘Surgical procedures (including all pre-operative and post-operative care associated with such procedures) carried on by a health care professional for - cosmetic purposes, where the procedure involves the use of instruments or equipment which are inserted into the body’³

This includes procedures such as face lifts, breast implants, liposuction, removal of bags under the eyes, brow lifts and buttock implants. Other procedures, such as skin tag and wart removal and skin blemish removal are also offered by cosmetic surgery providers.

Why do we want the CQC to rate them?

There have been significant concerns about safety and quality of providers in the cosmetic surgery sector since the publication of the report into PIP breast implants in June 2012. Sir Bruce Keogh’s review of the regulation of cosmetic intervention recommended that ‘**Providers should be required to notify the public on their websites of any CQC inspection concerns or notices.**’ Extending ratings of providers to this sector combined with the requirement to display the rating is consistent with this recommendation and will provide fuller information on the safety and quality of services provided.

2 - Cosmetic surgery providers	Strongly agree	Agree	Neither	Disagree	Strongly disagree
Is this sector one where a rating is necessary to help you make an informed decision about which service to use?					
Is there sufficient variation in performance across the sector for ratings to give a					

³ Paragraph 6(1)(c) of the Schedule 1 to the Health and Social Care Act 2008 (Regulated activities) regulations 2014.

clear indication of which providers are good and which are poorly performing?					
Will ratings of this sector enable the public, patients and commissioners to draw meaningful comparisons with services in hospitals and other sectors already rated by the CQC?					

3 - Independent ambulance services

What are these services?

Independent ambulance services are non-NHS ambulance companies who provide patient transport and triage services. The majority of providers in this sector deliver patient transport services, that are non-emergency journeys to hospital for individuals seeking treatment and care.

Independent ambulance service providers will normally be registered with the CQC for the regulated activity 'Transport services, triage and medical advice provided remotely'⁴. Where an independent ambulance provides an emergency response service, they will also be registered for the treatment of disease, disorder or injury.

Why do we want the CQC to rate them?

Although there are a small number of providers of independent ambulance across England, their number is sufficient for patients to be presented with a degree of choice in provider depending on where they live. Ratings will help those individuals choose which is the best patient transport service for them. Ratings will also help commissioners when deciding who to contract services from which will encourage providers to deliver good quality care and make improvements in the quality of their services.

3 - Independent Ambulances	Strongly agree	Agree	Neither	Disagree	Strongly disagree
Is this sector one where a rating is necessary to help you make an informed decision about which service to use?					
Is there sufficient variation in performance across the sector for ratings to give a clear indication of which providers are good and which are poorly performing?					

⁴ There is an exemption at 9(3) which excludes transport services which are provided within the confines of the site or venue being used for an activity or event mentioned in paragraph 4(3)(f) and (g). 4 (3)(f) – refers to the provision at a sports ground or gymnasium where it is provided for the sole benefit of persons taking part in, or attending, sporting activities and events. 4 (3)(g) – the provisions of treatment under temporary arrangements to deliver health care to those taking part in, or attending, sporting or cultural events.

Will ratings of this sector enable the public, patients and commissioners to draw meaningful comparisons with services in hospitals and other sectors already rated by the CQC?					
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4 - Independent dialysis units

What are these services?

Independent dialysis units operate outside of hospitals, and are run by independent sector organisations. They provide ongoing, long term treatment for patients suffering from acute renal failure. Around 30% of people undergoing long term dialysis are receiving it in units of this type.

Why do we want the CQC to rate them?

Independent dialysis units are registered by the CQC primarily for the regulated activity of 'treatment of disease, disorder or injury.'. These are predominately nurse-led with medical input when required. For individuals using the services of an independent dialysis unit, whether through choice or due to links with their local acute trust, ratings would improve awareness of the quality and safety of services which often care for people for a significant period of time.

There are a number of NHS Trusts that have links with independent dialysis centres, which provide services to their patients. These Trusts retain overall responsibility for the safety and quality of care that these patients receive. Allowing the CQC to apply ratings for these units will assist Trusts in making decisions about which of these service providers to contract with.

4 - Independent Dialysis Services	Strongly agree	Agree	Neither	Disagree	Strongly disagree
Is this sector one where a rating is necessary to help you make an informed decision about which service to use?					
Is there sufficient variation in performance across the sector for ratings to give a clear indication of which providers are good and which are poorly performing?					
Will ratings of this sector enable the public, patients and commissioners to draw meaningful comparisons with services in hospitals and other sectors already rated by the CQC?					

5 - Refractive eye surgery providers

What are these services?

Refractive eye surgery is the process of improving vision through changes to the refractive nature of the lens. Laser eye surgery is the most common form for refractive eye surgery but these services also carry out other procedures such as full lens replacement. Refractive eye surgery is most commonly accessed privately, through independent sector providers and high street opticians. In a limited number of cases, where correction of sight by glasses or lenses is not possible, patients can be referred for surgery through the NHS.

Why do we want the CQC to rate them?

Rating these providers is consistent with the proposal for ratings of other types of cosmetic surgery set out above. Ratings would also provide information about the quality of services for potential service users in a competitive market.

5 - Refractive eye surgery	Strongly agree	Agree	Neither	Disagree	Strongly disagree
Is this sector one where a rating is necessary to help you make an informed decision about which service to use?					
Is there sufficient variation in performance across the sector for ratings to give a clear indication of which providers are good and which are poorly performing?					
Will ratings of this sector enable the public, patients and commissioners to draw meaningful comparisons with services in hospitals and other sectors already rated by the CQC?					

6 - Substance misuse centres

What are these services?

Substance misuse services provide treatment for people with drug and alcohol misuse problems. The CQC regulates:

- hospital inpatient-based services
- community-based services
- residential rehabilitation services.

Substance misuse services are offered by different types of providers, in both the NHS and independent sector.

Not all substance misuse services need to register with the CQC – this depends on the activities that they provide. The regulated activities that are most relevant to substance misuse services are accommodation for persons who require treatment for substance misuse, and/or treatment of disease, disorder and injury. Some substance misuse services may also be registered for other regulated activities, for example diagnostic and screening procedures.

Why do we want the CQC to rate them?

Ratings of services in this sector would provide clear information on the quality of services for individuals seeking help with drug or alcohol misuse problems and for commissioners of services. Ratings may also encourage improvement by providers.

6 - Substance Misuse Centres	Strongly agree	Agree	Neither	Disagree	Strongly disagree
Is this sector one where a rating is necessary to help you make an informed decision about which service to use?					
Is there sufficient variation in performance across the sector for ratings to give a clear indication of which providers are good and which are poorly performing?					
Will ratings of this sector enable the public, patients and commissioners to draw meaningful comparisons with services in hospitals and					

other sectors already rated by the CQC?					
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7 - Termination of pregnancy services

What are these services?

Providers of these services are registered with the CQC to provide the regulated activity of the termination of pregnancy. Providers that solely provide advice on termination of pregnancy are not included in the regulated activity. Providers of these services, in addition to medical and surgical abortion, may also provide sexual health advice, pregnancy testing, sexually transmitted infection screening and contraceptive services. However, these latter activities are not regulated by the CQC and therefore cannot be rated.

Why do we want the CQC to rate them?

Seeking advice on termination of pregnancy and access to further services leading to a termination can be a very difficult experience. Whilst the NHS provides these services, individuals may prefer to go to an independent provider.

Access to clear information about the quality and safety of those services will be of considerable help in making an informed choice.

7 - Termination of Pregnancy	Strongly agree	Agree	Neither	Disagree	Strongly disagree
Is this sector one where a rating is necessary to help you make an informed decision about which service to use?					
Is there sufficient variation in performance across the sector for ratings to give a clear indication of which providers are good and which are poorly performing?					
Will ratings of this sector enable the public, patients and commissioners to draw meaningful comparisons with services in hospitals and other sectors already rated by the CQC?					

Regulatory impact on business

12. The duty on the CQC to undertake periodic performance assessment and publish ratings does not have any additional impact on businesses. This is because the CQC's inspections already enable information to be gathered to generate a rating, and the publication of a rating itself does not place any additional requirements on businesses. Any change made to the inspection regime would be made at the discretion of the CQC as part of its own decisions about its operating model.
13. A public rating will make clear the quality of services provided by different organisations, which may enhance or diminish their reputation and thus impact on the success and profitability of the business. Furthermore, this increased transparency of service quality may create incentives for providers to make changes to their services in order to gain a higher rating. This would benefit service users but result in increased costs for providers.
14. Bringing these providers or activities into the scope of the CQC's performance assessment ratings, will mean that they will have to comply with the requirement to display their rating. This requirement will bring a small regulatory cost to the providers brought into scope.

Equality impact

15. This policy proposal impacts on providers of health and adult social care subject to performance assessment by the CQC, as set out under section 46 and associated regulations under the Health and Social Care Act 2008. The costs will not impact on people who use services, or any group of individuals who use services and the costs to providers of displaying a rating will be small.
16. The general equality duty that is set out in the Equality Act 2010 requires public authorities, in the exercise of their functions, to have due regard to the need to:
 - Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act.
 - Advance equality of opportunity between people who share a protected characteristic and those who do not.
 - Foster good relations between people who share a protected characteristic and those who do not.

17. The general equality duty does not specify how public authorities should analyse the effect of their existing and new policies and practices on equality, but doing so is an important part of complying with the general equality duty.

18. We do not envisage that extending the duty under section 46 to these activities or providers will have an impact on individuals sharing the other protected characteristics under the Equality Act 2010. However, if you do have any concerns that doing so may have an impact in people sharing protected characteristics, we would welcome your comments.

Responding to the consultation

19. This section outlines the areas where we are seeking a response to this consultation.
20. In this document we have set out our aims and intentions, shared our reasoning for the proposals we have made, and in Annex B have set out draft regulations to meet these aims.
21. The scope of this consultation is to establish whether the regulations we have drafted will meet the aims we have set out. The consultation questions are listed in the next section.
22. This consultation will run for eight weeks, closing on **Friday 14th October 2016**.

To respond to this consultation, you can:

Answer the questions online, at [https://consultations.dh.gov.uk/cgc-
sponsorship/scope-of-performance-assessments-of-providers-regu](https://consultations.dh.gov.uk/cgc-sponsorship/scope-of-performance-assessments-of-providers-regu)

Email your responses to: giles.crompton-howe@dh.gsi.gov.uk

Post your responses to:

Display of Performance Assessment Regulations Consultation
c/o Giles Crompton-Howe
Room 2E11
Quarry House
Quarry Hill
Leeds
West Yorkshire
LS2 7UE

Consultation questions

1 - Community health providers	Strongly agree	Agree	Neither	Disagree	Strongly disagree
Is this sector one where a rating is necessary to help you make an informed decision about which service to use?					
Is there sufficient variation in performance across the sector for ratings to give a clear indication of which providers are good and which are poorly performing?					
Will ratings of this sector enable the public, patients and commissioners to draw meaningful comparisons with services in hospitals and other sectors already rated by the CQC?					

2 - Cosmetic surgery providers	Strongly agree	Agree	Neither	Disagree	Strongly disagree
Is this sector one where a rating is necessary to help you make an informed decision about which service to use?					
Is there sufficient variation in performance across the sector for ratings to give a clear indication of which providers are good and which are poorly performing?					
Will ratings of this sector enable the public, patients					

and commissioners to draw meaningful comparisons with services in hospitals and other sectors already rated by the CQC?					
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3 - Independent Ambulances	Strongly agree	Agree	Neither	Disagree	Strongly disagree
Is this sector one where a rating is necessary to help you make an informed decision about which service to use?					
Is there sufficient variation in performance across the sector for ratings to give a clear indication of which providers are good and which are poorly performing?					
Will ratings of this sector enable the public, patients and commissioners to draw meaningful comparisons with services in hospitals and other sectors already rated by the CQC?					

4 - Independent Dialysis Services	Strongly agree	Agree	Neither	Disagree	Strongly disagree
Is this sector one where a rating is necessary to help you make an informed decision about which service to use?					

Is there sufficient variation in performance across the sector for ratings to give a clear indication of which providers are good and which are poorly performing?					
Will ratings of this sector enable the public, patients and commissioners to draw meaningful comparisons with services in hospitals and other sectors already rated by the CQC?					

5 - Refractive eye surgery	Strongly agree	Agree	Neither	Disagree	Strongly disagree
Is this sector one where a rating is necessary to help you make an informed decision about which service to use?					
Is there sufficient variation in performance across the sector for ratings to give a clear indication of which providers are good and which are poorly performing?					
Will ratings of this sector enable the public, patients and commissioners to draw meaningful comparisons with services in hospitals and other sectors already rated by the CQC?					

6 - Substance Misuse Centres	Strongly agree	Agree	Neither	Disagree	Strongly disagree
Is this sector one where a rating is necessary to help					

you make an informed decision about which service to use?					
Is there sufficient variation in performance across the sector for ratings to give a clear indication of which providers are good and which are poorly performing?					
Will ratings of this sector enable the public, patients and commissioners to draw meaningful comparisons with services in hospitals and other sectors already rated by CQC?					

7 - Termination of Pregnancy	Strongly agree	Agree	Neither	Disagree	Strongly disagree
Is this sector one where a rating is necessary to help you make an informed decision about which service to use?					
Is there sufficient variation in performance across the sector for ratings to give a clear indication of which providers are good and which are poorly performing?					
Will ratings of this sector enable the public, patients and commissioners to draw meaningful comparisons with services in hospitals and other sectors already rated by CQC?					