

## Counsel and Care

### Transparency in outcomes: a framework for adult social care

#### A summary

##### About Counsel and Care

Counsel and Care is a national charity working with older people, their families and carers to get the best care and support for older people. We work with older people and their carers to ensure they are aware of and receive their rights and entitlements, and promote choice and control in later life.

We operate a unique and personalised advice service, which deals with around 250,000 enquiries per year, through telephone calls, emails, letters and our website. The frequency of contact we have with older people and the issues raised through this service are used to inform our campaigning and lobbying work.

The advice service is an expanding part of the organisation as ever-increasing numbers of people are in need of advice and guidance about complex care and support issues affecting older people. Enquiries are answered in detail relevant to the individual and are followed up with a tailored letter, stating options available with information about related policy guidance and legislation. This is a resource that people can and do revisit for guidance.

#### Support Transparency

**Do you support the proposal to replace annual assessments of councils conducted by the regulator with public-facing local accounts on quality and outcomes in adult social care?**

We would support a role for public-facing local accounts on quality and outcomes in adult social care for councils and are encouraged to hear that the government is keen to include local people's voices in the assessment process. However, we would argue that

this is not an appropriate replacement for Care Quality Commission (CQC) Annual Assessments of councils.

Replacing annual assessments of councils conducted by the regulator in favour of local accounts on quality and outcomes does not take in to account the real barriers faced by those with the highest level of care needs who may not be able to challenge council decisions in a meaningful way. There is no remit for service users, especially those who are older, frail, or have a disability to hold their local councils, as a whole, accountable in any consistent or transparent way. The government must continue to regulate and monitor adult social care whilst including the voices of patients and service users in ways that allow them to maintain choice and control but do not pass the burden of regulatory power to them directly.

### **What is your view on the balance between requiring standard elements in reports, and allowing freedom to fit to local circumstances?**

It is important that there is local accountability in assessment for councils and we would welcome any policy which asked councils to take full account of their work and progress in relation to self-stated outcomes. We would also argue that this should be separate to or in conjunction with measured assessments that are universal and comparable amongst and between councils. How will different local accounts be comparable in this new system? If they are not, then how are any attempts to hold individual councils to account for possible failures to achieve stated goals going to be possible as there won't be any standard from which to evaluate their performance?

There are also concerns over the concept of peer-review, which is not explained in detail in this document. What safeguards are in place to assure that councils will not conduct peer-reviews with 'like-minded' councils? In addition, as councils begin to take on the role of commissioners as well as providers of social care, there may be a conflict of interest when competition in a highly financially strained environment leads councils to over or under report on certain measures in order to possibly gain valuable contracts. There is little indication that these peer reviews will be statutory: what role will they have in the regular and consistent monitoring of councils assessments and will they be published nationally and in a way that is understandable and consistent? As there are no new statutory duties on councils to create local accounts that are compatible with those of other councils, how would the progress across councils, especially those choosing to combine their NHS and Adult Social Care indicators, be measured against those who do not combine the two? This is all in conjunction with a peer review system where there would be support to undergo these assessments in a transparent way

*'where possible'* which given the current strain on social care services, might mean that local authorities will not provide guidance as there is no duty to provide it as such.

**The proposed accounts would only apply to council commissioners. What further actions, if any, might be considered to promote transparency amongst service providers?**

There has to be robust and clear policy and guidance on how complaints should be handled by public authorities and there needs to be recourse to another body if the council and local population disagree, i.e. the Ombudsman. There should be some format, possibly community led with local government support, in which results of cases where complaints were made are published.

**Would you support an assurance role for the local HealthWatch in the production of accounts?**

If the Annual Assessments of the CQC are scrapped we would argue that an assurance role for HealthWatch is absolutely essential. We will again reiterate that while we welcome the call for people to have greater choice and control in relation to their local authority we would not want to put the burden of regulation and assessment solely on them, especially considering those with the greatest interest in adult social care assessment will likely be service users, their families and carers. These are people with already stretched financial and time resources who may not be able to assess and evaluate councils even as a part of larger committees.

We would support an assurance role for HealthWatch as that function is essential to ensure patient's rights are upheld. However, as the regulatory body in conjunction with Monitor, the commissioning body, we can foresee a serious conflict of interest between pro-market ideology in the commissioning of health and social care services and patients needs and rights.

We would additionally support the independent monitoring of councils' arrangements for managing services locally and would ask what independent body would be taking over this monitoring and what their remit would be to challenge those councils who may be underperforming?

## **We would also be keen to receive views on whether user and carer-led assessments could support transparency and empower local people?**

It is unrealistic to expect those with high care and support needs, and their carers, to make the most of local accountability. Scrapping the regulatory body that would monitor councils is risky, but if this approach is taken, there will be a significant need for greater support for carers and service users, and it is essential to address the issues of transparency and accessibility. Outcomes determined by service users cannot be turned into one national measure to justify that the social care system is working. Therefore, user and carer-led assessments should only be one part of a larger regulatory framework that monitors the health and safety of service users in the adult social care system.

If, as is stated, the CQC will account for 'the extent to which local people have been actively engaged in prioritisation and planning' of local adult social care, we would ask how this will be measured? Will there be frameworks in place, which will encourage and support those with the highest care needs to participate in local accountability? How will this be guaranteed? Will there be outcomes measures that count and assess the demographics of local councils in relation to who is likely to participate in these assessments?

In 4.12 the proposals for 'online service user and carer-generated information' do not account for those service users and carers who may not have access to computers or the skills to use them. Whilst these are important services and user generated content around evaluating councils' achievements or failings are important, they run the risk of only being available to those with the lowest needs and highest means, which will not accurately reflect those receiving adult social care. Whilst these should be a part of a package for local accountability they should not be the only way to 'judge how services are achieving outcomes'.

## **Secure the Foundations**

### **How should the Care Quality Commission ensure that future service inspections are risk-based and proportionate?**

Future service inspections can be risk-based and proportionate by creating a systematic and well-planned system of checks and balances. This system should not rely solely on individual triggers. The suggestion that these triggers be such things as the QODS, local intelligence or feedback from service users is not enough to satisfy concern about the

safety of service users. Many older people, who are often the most vulnerable, feel unable or unwilling to raise the alarm about poor conditions of care. In order to assess risk, it must be taken into account that 'local intelligence' may be unavailable to local authorities. Independent and skilled risk-based assessment will better guarantee the rights of people using social care services.

### **Does the regulatory model of registration, compliance and inspection provide sufficient safeguards for ensuring minimum quality standards across adult social care?**

In the proposed regulatory model of registration, compliance, and inspection, minimum standards can be expected initially. However, long-term sufficient safeguards cannot be guaranteed in a system where there are not regular and consistent checks on service providers that are publishable and comparable amongst and across councils. Risk-based approaches to monitoring care services have the advantage of reducing bureaucracy in the system but leave service users at a serious risk when there are no regular assessment mechanisms in place. A system which relies on whistle blowing by individuals or Health Watch interventions without a systematic regulatory function, will miss out on key risks and will not be able to maintain the health and safety of people needing adult social care.

### **How best might independent monitoring of local council arrangements for managing services be secured?**

There must be a way of measuring the response of councils to requests for support that they have a statutory duty to provide. In particular:

- What support were they asked for?
- Did they refuse such help?
- Did they only offer it when challenged on the policy and legislation that showed they had a duty to provide it?
- Did they take too long to provide the support they had a duty to provide?
- Or have they still failed to provide the support?

The response of councils to meet individual needs must be measured because there is evidence that councils will act to protect their budgets, and some service users will go

without the support they are entitled to if they do not receive independent and high quality advice and information in relation to their care and support.

## **Conclusion**

Counsel and Care is pleased to hear the government is focusing on local people having choice and control over the services they use. There is no doubt that the best outcomes in health and social care will be achieved when service users have greater choice and control. This is not to say, however, that the burden of regulation and assessment should be placed squarely on the shoulders of those with the most severe health and social care needs. The necessary frameworks and infrastructure must be in place to facilitate a real engagement of local people with service providers, including the NHS, social workers, and their local council. There is a real concern that a regulation vacuum will be created when the CQC no longer undertakes annual assessments of councils and HealthWatch and individuals are tasked to hold their individual councils or service providers to account. Without a larger picture created by regular assessments and comparisons of local areas, there will be no way of judging whether a council is doing well in comparison with others in the country in ways that are translatable. Without clear guidance, advice and information about how to navigate and make complaints, older people and their carers will not be able to take advantage of the new personalised system.

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