Inquiry into regulation of care for older people

COSLA

Does the regulatory system ensure that care services for older people are providing good quality and appropriate care?

COSLA takes the view that scrutiny of care services is important and has benefits – by providing independent assurance of how well-managed, safe and fit for purpose care services are, as well as seeking to ensure that public money is being used properly.

However, we believe that the regulatory system as a whole does not always have the powers or coordinative capacity to address poor quality care or wider strategic challenges. For example, the recent demise of Southern Cross asks a question about whether the regulation of care and the regulation of private finance are sufficiently coordinated.

Equally, in so far as health and social care integration will form a significant forward agenda for the NHS and local government, the relationship between HIS and SCSWIS will also need to evolve. However, we recognise that both of these organisations are relatively young and will require some time to fully integrate their component parts.

In assisting this process, it is COSLA’s view that it would be beneficial for the regulatory bodies to establish clear information about the costs and benefits of external scrutiny and to work towards establishing clear links between its scrutiny activities and the direct impact this has on service improvement.

Can we be confident that the regulatory system is picking up on care services where the quality of care is poor?

Despite recent high profile instances of poor quality care not being picked up by scrutiny systems, the basic structure of the regulatory system, based on a system of announced and unannounced inspection visits, seems to encourage proportionate and risk-based regulation.

However, that does not mean we can always be confident that poor quality care is being picked up. COSLA maintains that that is not just a matter for the regulators, who rely on effective cooperation and intelligence from local authorities and providers of care. For example, over the last few years, local government has worked hard with the Care Commission [sic] and then SCSWIS to reduce areas of duplication between the inspection of care homes and local authority contract management. Confidence in the judgement of the SCSWIS inspection process lies at the heart of that.

It will be important, therefore, that SCSWIS can demonstrate that its scrutiny and regulation activities are deserving of that confidence into the future by
being particularly attentive to those care facilities that have a history of delivering poorer quality care.

Are there any particular weaknesses in the current system?

COSLA’s view on the potential weaknesses of the current system of scrutiny are as follows:

- **Resources**: Diminished resources under new organisational arrangements has led to a reduction in the frequency of inspections and the opportunity for scrutiny of care services to take place. Clearly this has an impact on the capacity of SCSWIS to engage every care facility as frequently as it has done in the past but our view is that a proportionate and risk based approach should still be achievable within that context. It is important that the frequency of planned inspections are discussed with the commissioners of care.

- **Assessment**: While COSLA accepts that self assessment and investigation of complaints will form a part of any system of scrutiny of care provision, there can be an over-reliance on these two avenues of investigation within the current system. The absence of complaint or self-assessment issues cannot deliver assurances that quality care is being delivered. These tools have to sit within the context of an effective programme of announced and unannounced inspection. We recognise that this requires a difficult balancing act – and while for the most part this is achieved by SCSWIS – there is a small margin for error.

- **Transparency and Integrity**: Care service providers currently have no right of appeal about complaints made about their care provision. This lack of transparency brings the integrity of the system into question. More scope in the system for engagement between scrutiny services and care providers could support the development of a system of scrutiny built on a spirit of co-operation and focused on positive outcomes in changes to service provision where quality of care has been proven to be poor.

- **Accessibility**: The nature of reports could be changed so that the information presented within them is made more accessible to the public and available within a shorter space of time than is currently the case. This would allow service users and their families to make informed decisions about the type and nature of care that they wish to receive.

- **Speed of decision making**: Councils often make pre-emptive decisions about poor performing care services because of the speed of the system of regulation. A more robust approach to follow up on improvement and enforcement notices and their associated timescales would be welcomed. For example, the National Care Home Contract allows for the withdrawal of a quality award if a care home achieves a low grading (1 or 2 on the SCSWIS QAF system in the theme of quality if care and support). This contractual mechanism is designed to act as an improvement incentive and the role of SCSWIS is vital in being able to validate that improvement timeously.
• **Finances:** as indicated above, we are concerned that the regulation of care and the regulation of finance are not sufficiently coordinated. Recognising that private sector provision forms a significant part of the care sector, public agencies need to be assured that the business models being operated are not founded on high risk strategies which supersede continuity of care and tax payers’ interests.

**Does the system adequately take into account the views of service users?**

The views of service users are clearly included as part of the current system of scrutiny of care provision. However, COSLA would welcome this being further strengthened. If we are serious about moving towards an outcomes based assessment of performance in the public sector, then so too does the regulatory system need to build evidence about whether or not those outcomes are being achieved. SCSWIS is arguably stronger at this in terms of the inspection of general social work services than it is in the inspection of individual care facilities. This is partly because canvassing satisfaction levels among service users is more intensive and costly at the level of individual facilities. However, the development of Self-Directed Support and the personalisation agenda means that we need to explore this type of intelligence in more detail.

**Does the registration and regulatory system provide an appropriate basis for the regulation, inspection and enforcement of integrated social and NHS care in the community?**

Irrespective of whether the regulatory powers and duties of HIS and SCSWIS are capable of delivering against a background of health and social care integration, COSLA would argue that that relationship will need to evolve in response to strategic, financial and operational developments across Scotland. For example, the development of effective joint commissioning strategies for older people will undoubtedly be a cornerstone of future NHS and local government activity. The regulatory bodies will need to establish not only how they will engage with this process but also how they will facilitate a service improvement agenda in what is already quite a crowded improvement landscape.

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