Consultation Response

Care Quality Commission (CQC)

The approach to regulating indepdendent doctor services

October 2015

General Comments

The Medical Protection Society (MPS) welcomes this opportunity to respond to the Care Quality Commission's (CQC's) proposed new approach for regulating and inspecting independent doctor services.

Prior to its publication in October 2014, MPS responded to the initial CQC consultation on its provider handbook for NHS GP practices and GP out-of-hours services. In that consultation we raised concerns about the complexity of the process and resource and other pressures it may place upon practices. We have similar concerns about these proposals for regulating independent doctor services.

We outline our concerns in response to the specific consultation questions below. In so doing we have again studied carefully the five key questions, supported by the key lines of enquiry (KLOEs). Namely are services;

- Safe?
- Effective?
- Caring?
- Responsive to people's needs?
- Well-led?

We have significant reservations about how the CQC will be able to adequately reflect the different nature and size of services provided by independent doctors, and ensure that the balance is met between consistency and fairness in inspections.

Questions

Do you agree that the KLOE's will enable us to comment on independent doctor services under the five key questions? Is there anything else we should include? We have provided examples of the evidence we may look for during our inspections, do you agree that this will identify any areas of poor quality care?

The diverse nature of independent doctor services must be recognised, and therefore the application of all the KLOEs under the five key questions may not always be necessary or indeed appropriate. MPS sees both transparency and consistency as being essential to the effective application of the CQC's five key questions for assessing organisations. However, there is a balance to be achieved between consistency, and recognition of the varied nature of independent doctor's services; for instance, its managerial structure and resources.

An independent doctor service may have very limited administrative support staff and with it an informal structure, which represents a significant difference between it and GP practices where more formal managerial structures are evident. Therefore the appropriateness and necessity of the CQCs question about an independent doctor's services 'effectiveness' in every inspection has to be considered carefully alongside the need for balance.

We would welcome more information about how the CQC sees its inspection regime being able to meet this balance, and recognising the differences across this distinct element of the healthcare sector.

Do you agree that the examples of intelligence we plan to look at will identify both good practice and risks of poor quality care?

While MPS believes the examples of intelligence will assist the CQC in identifying good practice as well as risks of poor quality care, the question is again raised about the size and nature of the service being inspected. For example, the provision of completed clinical audit cycles, or independent peer reviews, may not be feasible or achievable in a service setting where only one professional practices. The CQC needs to clarify whether all independent services, irrespective of size, are expected to provide examples on all forms of intelligence.

The tendency for higher patient expectations in a 'paid-for' service vis a vis an NHS service should also be noted, as the two are not necessarily comparable in all contexts. Again, the CQC should reflect this in its inspection regime.

Should the CQC rate independent doctor services?

While MPS agrees in principle to this element of the CQC's proposals, we do have significant concerns about the risks involved with adopting a one-size fits all approach to the regulation of all independent services.

As identified in our answer to the first consultation question, the proposed approach may be more straightforward, and perhaps desirable, for services operated by a number of practitioners with a clear structure and a good level of additional staff support. This becomes much less straightforward when looking to a service managed and delivered by a single practitioner. It is essential that any rating system works in an effective, transparent and fair way – as the effect they could potentially have on an independent doctor's livelihood should not be underestimated.

MPS also foresees a number of practical challenges for the CQC in rating independent services given the sheer scale and number of specialties in this sector. Considerably more detail is needed to satisfy the question of how the CQC can achieve fairness in this rating system.

Do you agree that independent doctors should remain within the scope of regulation by the CQC?

MPS has long held concerns about the potential for overlap between the regulatory work of the General Medical Council (GMC) and the CQC.

For instance, much of what will be reviewed by the CQC will need to also be demonstrated by the doctor for revalidation purposes with the GMC. There is thus duplication and overlap. We would welcome a discussion between all parties about how overlaps in regulation can be managed most effectively, for both independent services and others. Healthcare professionals are facing an unprecedented level of regulation, and it is in the interests of patients, doctors and regulators to keep regulatory overlap to an absolute minimum

How can the CQC recognise and encourage notable practice for independent doctor services?

MPS is unclear as to the rationale for the CQC wishing take on this additional role, as such a practice would represent it going beyond its regulatory remit, to then promoting services that are operating in a commercial environment.

During our inspection of independent doctor services we will use a number of methods to gather information from providers, the public and others about their views of services provided. Do you agree that the proposed methods of doing this are the right ones to use? Will they enable us to gather views from all of the people we need to hear from?

MPS would have significant concerns about the CQC requesting information from the GMC prior to its inspection of an independent doctor's service. This has the potential to be prejudicial to the CQCs

inspection, and may not even be relevant. This would particularly be the case if a doctor is subject to a complaint at the time of the CQCs enquiry to the GMC – a complaint which is subsequently dropped but only after the CQC has concluded its inspection.

The CQC should focus carefully on how it can avoid prejudicing its inspections when gathering information from other sources.

About MPS

MPS is the world's leading protection organisation for doctors**,** dentists and healthcare professionals. We protect and support the professional interests of more than 300,000 members around the world. Our benefits include access to indemnity, expert advice and peace of mind. Highly qualified advisers are on hand to talk through a question or concern at any time.

Our in-house experts assist with the wide range of legal and ethical problems that arise from professional practice. This includes clinical negligence claims, complaints, medical and dental council inquiries, legal and ethical dilemmas, disciplinary procedures, inquests and fatal accident inquiries.

Our philosophy is to support safe practice in medicine and dentistry by helping to avert problems in the first place. We do this by promoting risk management through our workshops, E-learning, clinical risk assessments, publications, conferences, lectures and presentations.

MPS is not an insurance company. All the benefits of membership of MPS are discretionary as set out in the Memorandum and Articles of Association.

CONTACT

Should you require further information about any aspects of our response to this consultation, please do not hesitate to contact me.

Thomas Reynolds
Public Affairs and Policy Lead

Email: thomas.reynolds@medicalprotection.org

The Medical Protection Society Limited
33 Cavendish Square
London W1G 0PS
United Kingdom

Tel: +44 (0)20 7399 1300
Fax: +44 (0)20 7399 1301

info@medicalprotection.org
medicalprotection.org