

Department of Health Consultation on Proposed Changes to the Regulatory Framework for Adult Social Care Services

Submission from the Relatives & Residents Association



1. Introduction

1.1 The Relatives & Residents Association (R&RA) exists to promote the rights and well-being of care home residents/prospective residents especially by providing advice and support to them and their relatives at times of crisis – perhaps at the point of deciding to move into a care home or in making a complaint or airing other worries about a resident’s welfare once they have moved in.

1.2 Being the only national charity concentrating wholly on the specific and detailed needs of older people moving into, or already living in, residential care, it is therefore uniquely placed to comment on the proposals to change aspects of social care regulation currently under consultation.

This submission responds specifically to the proposed changes to the regulatory framework for adult social care services regarding frequency of inspections and quality assurance self-assessment in relation to care homes as set out in the Department of Health’s consultation document, dated 14 October 2005.

2. The rationale for the proposed changes and R&RA’s response

2.1 Frequency of inspections

2.1.1 The consultation document suggests that changing the requirement for annual inspections to at least once every three years will enable the CSCI to concentrate effort on providers about whom there is the greatest level of concern. It argues that a robust system of risk assessment will allow such differentiation to be effective. The CSCI’s ability to undertake random inspections and its readiness to respond to complaints and whistleblowing will remain.

2.1.2 The R&RA vigorously questions the assumptions underlying these moves and disagrees with the resulting proposals. The public has made it clear on many occasions, some in response to research commissioned by

CSCI, that it favours more inspection, particularly more unannounced inspection, and the R&RA supports this view. Most people with experience of residential care, whether as service users, the relatives of services users or as practitioners of various professional disciplines, know that a care home, its practice and overall regime can change almost overnight. Residential care rests on very fragile foundations, relying often on a largely untrained and changing workforce, and is particularly susceptible to unforeseen and unpredictable change. From the viewpoint of vulnerable residents, reliance on risk assessment to protect them is, itself, too risky. The balance of risk as outlined in the consultation document seems to weigh heavily against the needs and rights of residents. Moreover, the time lag between risk factors being noted and the regulator being able to take the first step in enforcement action may well create additional risks for residents.

2.1.3 No attention is paid in the consultation document to the detailed mechanics of risk assessment:

- How will such risks be notified and by what systems? Will all homes, even the smallest, be required to install new computer systems with appropriate capacity or will the reporting system rely on time-consuming 'paper and pencil' processes?
- Will CSCI's internal IT capacity be robust enough to handle the reporting system- it has not been impressive so far?
- How will regulatory responses be agreed and undertaken. Will there be a hierarchy or prioritisation of risks and a hierarchy of prioritisation of responses established?

2.1.4 It is now established that the general public feels there should be more robust inspection rather than less. This view is reinforced daily by many callers to the R&RA's advice line. A high proportion of our calls relate to the poor quality of care experienced by people living in care homes. Relatives make it clear that they want to be able to rely on frequent face-to-face contact between inspectors and care homes to assure their relatives' safety and wellbeing. This is equally true for those living close by as well as for those living at a distance. The CSCI itself recognises the inadequacy of many regulated services. Page 117 of its recent report The State of Social Care in England, states: "*There are serious concerns for all adult services, in both residential and domiciliary care, around standards ensuring the safety of people using services.*" We know that older people are especially vulnerable to abuse in these situations.

2.1.5 It seems misguided that the Department of Health should be contemplating major changes to parts of a regulatory system that was only introduced by this government in 2002 and which has already been the subject of radical overhaul with the transition from NCSC to the CSCI in 2004 and further change contemplated in 2008. The R&RA argues that the current system needs time to be consolidated and for already-introduced changes to inspection methodology to settle in. NCSC and, later, CSCI staff have never been sufficiently trained to undertake the new duties required of them.

2.2 Risk assessment

2.2.1 The consultation paper says that risk assessment will be based on a range of inputs: the Commission's own cumulative knowledge of a provider derived from its previous contacts with the provider; the provider's own self-assessment; a service user assessment; information derived from inspection activity during the previous year; analysis of complaints, serious incidents etc data; significant changes; CSCI quality rating.

2.2.2 The R&RA argues that there are major drawbacks in these proposals:

- i) the CSCI's cumulative knowledge will weaken incrementally as direct contact (and therefore detailed knowledge and experience) declines;
- ii) providers' self assessment will not be standardised (unless the CSCI intends to issue its own self-assessment guidance) and in any case will be partial and subjective;
- iii) service users' assessments are valuable adjuncts to more formal processes but represent only partial, subjective views of a service;
- iv) complaints/serious incidents provide post hoc evidence of poor performance and provide lessons for future action; they do not provide protection to those who suffered from the originating poor performance;
- v) reporting systems must be robust enough to pick up the significance of changes; the R&RA is doubtful that their capacity will be sufficiently robust;
- vi) CSCI quality ratings must be based on a mix of triangulated evidence drawn from regular and frequent inspections. Unfortunately the thrust of the proposed changes undermines this.

2.3 Inspection

The consultation document outlines three types of inspection: 'key'; 'random'; and 'themed/focused'. The R&RA raises no objections to these in principle but argues that leaving too long an interval between key inspections

will lead to the incremental weaknesses already outlined in this submission. At least one annual, comprehensive inspection is needed.

3. The Department of Health's Consultation Questions

In response to the specific questions listed in the consultation document, the R&RA's answers are:

Question 1: Disagree. Given the vulnerability of the majority of care home residents, the CSCI should inspect all registered services regularly, frequently and consistently.

Question 2: Disagree. Key inspections should take place every year – not at least every three years; random and more frequent inspections over and above an annual inspection – and more unannounced inspections – should take place.

Question 3: This question does not offer our preferred option and cannot be answered. Our preferred option is annually together with further unannounced visits.

Question 4: The R&RA is puzzled by this question (re giving statutory force, via regulations, to require registered providers to provide annual quality assessments etc...). Regulation 24, paras (1) and (2) already require the registered provider to establish a system for assessing quality of care and reporting on this to the CSCI. We see no reason to change this.

Question 5: Agree. The R&RA supports the introduction of penalties for non-compliance with the requirements.

3. Conclusion

The R&RA is concerned that the Department of Health is proposing changes that will jeopardise the safety and well-being of care home residents. Further, the Association fears that these changes are being proposed for financial reasons (the need to reduce the cost of regulation) rather than to improve the regulatory process. We urge the Department to re-consider its proposals.

The Relatives & Residents Association

24 The Ivories

6-18 Northampton St

London N1 2HY

Tel: 020 7359 8148