NHS system oversight framework 2021/22

Response to consultation

Contact information: Ed Hammond, ed.hammond@cfgs.org.uk

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About the Centre for Governance and Scrutiny

The Centre for Governance and Scrutiny (CfGS) is social purpose consultancy and national centre of expertise. Our purpose is to help organisations achieve their outcomes through improved governance and scrutiny. CfGS exists to promote better governance and scrutiny, both in policy and in practice. We support local government, the public, corporate and voluntary sectors in ensuring transparency, accountability and greater involvement in their governance processes.

Governance and scrutiny are essential for the successful working of any organisation. Now, more than ever, trusted decisions are needed. We believe that decisions are better made when they are open to challenge and involve others – whether that's democratically elected representatives, those affected by decisions, or other key stakeholders.

At the heart of better governance and scrutiny are the right behaviours and culture. Our work champions these relational aspects and designs the structures to support them, leading to more effective decision-making and improved outcomes for organisations and people.

1. CfGS welcomes the replacement of the special measures regime with a new system which has the potential to be more transparent and responsive. This response sets out CfGS's views on the proposed system in totality, rather than responding to the specific questions asked in the consultation document.

2. Our overriding concern is the need for a clearer path for the public voice within the framework. The views of patients and the public will be critical in determining quality. Seeking to distil these views into traditional metrics is fraught with complexity.

3. As far as possible NHS England should work in partnership with bodies like Healthwatch and local overview and scrutiny committees to secure different perspectives on what the framework seeks to measure, and should draw into the framework anecdotes and stories about patient care which will ensure the

framework is anchored to the direct experiences of those using services commissioned and provided by ICSs and other partners in the health and care system.

4. This would go some way to strengthening what we think are inherent weaknesses in the framework as set out. Much in this framework rests on confidence in the quality of data and information collected by trusts, ICSs and other organisations within the health and care system. It also rests on the ability of ICSs to develop the skills and capacity to both deliver improvement support, and to effectively escalate matters to national bodies to take meaningful action.

5. CfGS has recently collaborated with Government and other partners in producing a "Governance risk and resilience framework" for the local government sector, which is currently being rolled out. That framework touches on many of the issues raised by the System Oversight Framework and we have used it in focusing our response.

6. We agree in principle with an approach which sees ongoing oversight supplemented by more detailed "by exception" support. However, we do not feel that the framework will deliver this if it focuses on traditional KPI metrics. There are examples across the public sector in recent years of metrics being designed which measure the wrong things, or the right things in the wrong way. The framework does not sufficiently account for the subjectivity inherent in the design and oversight of these metrics, including how they might apply (or be interpreted) in unexpected ways in individual areas.

7. There are four areas on which we feel improvements are needed.

- Clarity on the themes and the metrics to sit under those themes. The framework is designed to deliver a traditional "balanced scorecard", but its strength will rest entirely on the nature of the metrics chosen to describe each theme. A single set of metrics raises the risk that concerns about care quality may not be captured adequately within a framework whose contents are not subject to triangulation by external bodies of evidence. For example (as we note in point 4 below) there is likely to be a role for bodies like PALS, Healthwatch and local authority health scrutiny to add insight and intelligence – and their own interpretations – to data being collected. We are concerned that – suggested by prior experience – metrics will tend to focus on easily-measured outputs and will fail to acknowledge the importance of behaviours, attitudes, values or organisational culture generally. We are also concerned that review of metrics at trust or ICS level will not capture emerging performance concerns relating to patient safety. We would have expected to see patient safety given much more prominence in the framework and the themes (while recognising that it is the focus of one of the six themes).
- Clarity on segmentation arrangements. Our assumption is that placement in segments will hinge on professionals' interpretation of performance against metrics. We worry that this will be interpreted mechanistically, with thresholds around individual and groups of metrics being used by system partners to game the framework, particularly where bodies sit in segment 1. We are concerned that the process by which judgements are made on segmentation will be opaque, and applied inconsistently (given that the risk and performance environment for different ICSs and trusts will be very different). The framework suggests a homogenous approach to oversight which does not provide a framework within

which necessary inconsistencies (and variable levels of risk) might be explored. Although risk is mentioned it is unclear whether a national typology will be applied to assessments of risk or whether a more nuanced, localised interpretation will be taken. The latter will be the approach most needed, but would work against a national system of oversight – hence our support for an approach which draws in local non-NHS system partners.

- Support for organisations in segments 3 and 4. A robust improvement system will be necessary for bodies which are demonstrably failing. Where this organisation is the ICS, the Recovery Support Programme will presumably need to involve support for all partners within the system – potentially a highly complex task, and one where there should be a clear role for non-NHS system partners in providing support. We are concerned about the capacity and flexibility of NHS England in being able to deliver the level of oversight provided for in the RSP at a time of organisational change.
- As we have already mentioned, the centrality of the patient voice and of other external voices. The health and care system is evolving as a landscape which incorporates a wider range of system partners. The roles of these partners in supporting system improvement is not explored in the consultation. The role of the public in contributing to insights on weakness and failure, and the role of external bodies such as Healthwatch and local authority health scrutiny, is also not acknowledged. The active contribution of these organisations, and others, will be critical in supporting NHS colleagues to make accurate and robust judgements about the strength and weakness of health and care systems.