

MEETING	PUBLIC BOARD MEETING 18 July 2018
Agenda item and Paper Number	7 CM/07/18/07
Agenda Title	Responding to Speaking Up and Whistle blowing – Assessment of current practice and Action Plan for Improvements
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PURPOSE OF PAPER:

The purpose of this paper is to provide the Board with an update on how CQC manage and act on disclosures made to us by people who work in the Health and Adult Social Care sectors.

Actions required by the Board

- **To note** the actions proposed.

1. Summary

- At a previous public Board meeting the Chief Executive gave an undertaking to have a discussion with the senior team at CQC to determine whether current practice on Speaking Up/Whistle Blowing is consistent with our obligations and duties to people who speak up and, furthermore, to assess if our policies and procedures are effective in supporting that delivery.
- The work undertaken to date has found that, overall, the CQC has an effective policy framework and is operating in line with its duties to respond effectively to information disclosed by people who work for the organisations CQC regulates. It also found that improvements have been made since the last review in 2015.
- However there is only limited feedback available from those who have raised concerns with us about their experience of those processes and, therefore, how this might be improved.
- This paper sets out the work to date, the findings of the assurance study, areas where further improvements should be made and an update on the progress to date with those actions.

2. Recommendation

The Board is asked to note the proposed actions detailed below.

3. Definition of terms

- Speaking Up is the term used (and promoted by the National Guardian's Office) when someone who is directly (or has previously been) employed by, or provides services in the NHS raises a concern about malpractice, risk (for example, to patient safety), wrongdoing or illegality. For CQC purposes, the term 'whistle blower' means someone making a disclosure who is directly (or has previously been) employed by, or provides services for, a provider registered with CQC - and who is protected under the Public Interest Disclosure Act 1998 (PIDA).
- Examples of a worker who provides services to a registered provider include, but are not limited to, agency staff, visiting community health staff, GPs, independent activities organisers and contractors. Workers (this term hereafter including ex-workers) who speak up are protected in the public interest, to encourage people to raise concerns.
- A whistle blower is not defined as a member of the public, a person who uses services, or their representatives. CQC will receive and act on concerns raised by people in these groups about providers who are registered with CQC, but they should not be described as whistle blowers as they are not protected by PIDA.

4. What we have done to date

- Revised terms of reference and Membership for the Safeguarding Committee – now known as the Safeguarding and Responding to Concerns committee - have been approved to strengthen leadership and accountability for Speaking Up and Whistleblowing within CQCs governance structures.
- A quality sampling exercise has been conducted in which we reviewed a sample of all disclosures made to CQC between October and December 2017. This looked at how these disclosures were managed against agreed policy and standards i.e. both responding to concerns and whistleblowing cases as defined above. This is discussed in detail below.

5. Summary of the Quality Sampling exercise

A sample of around 10% (208) of disclosures was taken from the total of 2094 received between October-December 2017 (253 in hospitals, 51 in PMS, and 1,790 in ASC). A total of 195 cases were examined in detail (80 from ASC, 51 from PMS and 50 from Hospitals). Of these:

- 6% (11) resulted in the planned inspection being brought forward;
- 6% (12) cases resulted in a responsive review;
- 34% (62) had the information incorporated into inspection already underway; and
- 55 % (100) had the information noted for further review.

We also reviewed 11 cases where we had received complaints about how we had handled disclosures. We found that:

- In two cases where the person who raised a concern complained that CQC had compromised their confidentiality this was found not to be the case, as the worker had copied their employer into the correspondence;

- In two cases the worker complained that they had received no feedback but their initial information had been supplied anonymously and until they contacted us to complain we did not have any contact details for them;
- In one case the inspector had spoken to the worker and obtained their consent to share; and
- Two cases were withdrawn, two cases were partially upheld (meaning an aspect of or parts of a complaint could not be fully upheld whilst other parts were) and the other four cases were not upheld.

The review found that:

- **The vast majority of cases were handled in line with CQC policy.** There was also evidence of some improvements in the way cases were handled and managed, since the last review in 2015.
- **There were some delays in responding to information disclosed to us.** This was often a result of the volume of information individual inspectors were dealing with alongside their other work and their assessment of the risk attached to the disclosure.
- **There was difficulty with tracking some concerns due to some being assessed as primarily a safeguarding issue.** These are normally classified by CQC as safeguarding and the actions recorded accordingly. This can result in duplication of disclosures on our systems and result in difficulties in tracking the data to ensure an accurate picture can be maintained and appropriate actions taken quickly enough.
- **Some of the variation may be linked to the fact that the volumes of concerns are concentrated in certain sectors.** This means that some inspectors working will rarely receive a disclosure, and this has implications for the support they require when they do.
- **The current system does not collect systematic feedback about the experience from workers (or others) who have made a disclosure to CQC.** Whilst the number of complaints received is small, the analysis of these, when combined with feedback from other sources such as the National Guardian's Office, indicates that there are issues that need to be further understood and addressed. These experiences include:
 - **Some workers who have made disclosures not receiving any response or getting a response that 'lacks meaning'.** Some workers who have made a disclosure have complained that no-one told them what had happened to the information they shared or what action had been taken. Limited evidence was found that we routinely feedback to people who raise concerns.
 - **There is still confusion between cases that are genuinely anonymous and those where we have a duty to protect informants confidentiality.** Many people do not share their contact details with us, thus are totally anonymous and non-contactable. Others give us their contact details expecting these to remain confidential, but we have not used this to get back

in touch with them. The current structure of the disclosure form makes recording information accurately difficult and can result in us being unable to contact people who believe that they have asked for a response.

6. Improvement Actions to date

Following the sampling exercise it was agreed that further improvements to our processes, training and infrastructure were required. These will ensure CQC can respond to concerns raised in line with our policies and that we do so in a robust, consistent and timely way.

To date this has included:

- The development of a revised end to end process to provide clarity to CQC staff on how they should handle and manage information provided to CQC and respond to workers who have raised concerns with us. A workshop was run with CQC staff to discuss this and it was revised in light of their feedback.
- The development of revised guidance for CQC staff on how they should handle and respond to workers raising concerns
- Revision of the guidance for CQC staff on how they should handle and manage information provided to CQC, and how they should respond to and provide feedback to workers who have spoken up.

7. Future actions

The following actions are planned for the coming weeks;

- Reviewing the way in which information is currently held on our system and making changes made where necessary.

This will help ensure that the information held on our systems is used and managed in line with our policies and procedures, and that CQC has the ability to assess and report on its effectiveness

- Developing and implementing process to obtain systematic feedback from people who have made disclosures to CQC.

We will co-produce this with workers who have made disclosures to CQC to gain insight into their views on what 'good' would look like. It will also provide insight into their thoughts on how CQC can deliver this and how contact/feedback is given on actions taken and outcomes.

- The work to deliver these changes will be completed by the end of 2018. It is planned that this will shadow the existing system into early 2019 with a full rollout from Q1 2019/20. Progress will be closely monitored and reported back through the Safeguarding and Responding to Concerns Committee.
- A further quality sampling/deep dive exercise will be run in 2019 once the new process is embedded to see what improvements have taken place and what further changes might be needed.