Health Services: Directors

Written Answers

Sarah Wollaston Chair, Health Committee

To ask the Secretary of State for Health, by what metrics the effectiveness of Regulation 5: Fit and proper persons: directors is measured; and if he will make a statement.

Philip Dunne The Minister of State, Department of Health

Regulation 5 of the Health and Social Care Act 2008 (Regulated Activities) Regulations 2014, The Fit and Proper Persons Requirement (FPPR) for Directors came into effect for National Health Service bodies on 27 November 2014 and was extended to cover all providers regulated by the Care Quality Commission (CQC) on 1 April 2015.

The regulations include a requirement that they must be reviewed every five years, beginning five years after 1 April 2015. As yet the Department has not undertaken a review of regulation 5. Any such review would be completed with input from the CQC.

The CQC has advised that it is the provider's responsibility to ensure that all directors appointed are fit and proper for their role. The CQC's responsibility is to check whether providers have the right systems and processes in place to assure themselves of fitness.

The CQC has not yet conducted a thorough assessment of the regulations' effectiveness. However, in the first years of implementation, the CQC has received feedback on how the regulation is applied, often driven by an assumption that it is CQC's role to assess fitness directly rather than to assess providers' systems and processes.

In response to this feedback, the CQC has considered whether its current approach is in line with what can be reasonably expected of the CQC within the current regulations. The CQC has therefore begun a programme of work to improve its internal systems and processes for handling referrals under FPPR. There are three areas of CQC's guidance and processes that it is strengthening:

- **Passing on all details of FPPR concerns raised with the CQC to providers**

Presently the CQC does not pass on all concerns raised with it to providers to ask for an explanation. Instead the CQC assesses whether there are concerns that a reasonable employer should be expected to investigate and if the CQC does not think there is a substantive concern it does not pass the material on. When the CQC does share concerns, it initially summarises the information and will later send on the full material if requested.

CQC's intention is to change both of these steps so providers are notified of all concerns and receive all of the information immediately. The CQC will set out more clearly the type of investigation it expects providers to undertake, following notification.

- **Interpretation of "serious mismanagement"**
CQC believes there would be benefit in developing a clearer understanding of what type of behaviour constitutes ‘serious management’. The CQC has prepared some draft guidance that characterises serious mismanagement and will shortly be publishing this for consultation. The CQC will develop the finalised draft into internal and external guidance as to how it interprets and applies this element of the regulation.

- The way CQC manages and records information regarding FPPR

It is recognised internally that CQC needs to improve the data available to itself about CQC’s application of FPPR. The CQC is developing an approach to better enable it to track the volume of FPPR concerns shared with CQC by sector and the actions that result from these.

The CQC aims that, by undertaking the programme of improvements described above, CQC will be better placed to monitor the effectiveness of Regulation 5: Fit and Proper Persons in future.

Sarah Wollaston Chair, Health Committee

To ask the Secretary of State for Health, in how many instances the Care Quality Commission has asked service providers to instigate fit and proper persons requirement (FPPR) investigations for each year since the FPPR came into force; and how many of those FPPR investigations resulted in a director being discharged from duty.

Philip Dunne The Minister of State, Department of Health

The Care Quality Commission (CQC) is the independent regulator of health and adult social care in England.

The CQC has provided the following information:

The following actions have been taken in relation to Regulation 5 Fit and Proper Persons Requirement:

- CQC management reviews enable the CQC to reach a decision about the next course of action to take in response to a trigger for review, for example when we identify concerns around non-compliance with the regulations during an inspection, at the point of registration, or when we receive a safeguarding alert or concern. As at 8 February 2017 there have been 38 Adult Social Care (ASC), 14 Hospital, 5 Primary Medical Services and 37 Registration management reviews held regarding regulation 5.

There have been 28 enforcement actions under this regulation:

- 21 have been triggered by an enquiry, 16 of which were during the registration process.

- Seven were triggered by an inspection, four at ASC locations and three at Hospital locations.

- In seven cases registration was refused. In five cases registration was cancelled and in a further eight cases the providers were registered with agreed actions. The remainder included recommended fixed penalty notices, urgent and non-urgent imposition of conditions and warning notices.
Sarah Wollaston Chair, Health Committee

To ask the Secretary of State for Health, for what reasons the Care Quality Commission closed its fit and proper persons requirement process on Paula Vasco-Knight, then Chief Executive of South Devon NHS Foundation Trust.

Philip Dunne The Minister of State, Department of Health

The Care Quality Commission (CQC) has advised that in October 2015 the CQC received information of concern regarding the appointment of Paula Vasco-Knight as Acting Chief Executive at St George's University Hospital NHS Foundation Trust. These concerns related to Paula Vasco-Knight's conduct whilst she was Chief Executive at South Devon Foundation Trust. The CQC followed this up directly with the trust to review whether they had followed appropriate recruitment processes and carried out robust checks to determine Paula Vasco-Knight's fitness prior to her employment.

Based on the extensive evidence supplied by the trust and information provided separately from the Nursing and Midwifery Council the CQC concluded that the trust had not breached the fit and proper persons regulation at that time in relation to that appointment. The CQC informed the trust of this decision in February 2016 but reserved the right to reopen the case in light of any further information received. At the time of this decision, neither CQC nor the trust was aware of the fraud charges.

In April 2016 CQC received new information that led it to re-open the case. In early May 2016 both CQC and St George's became aware for the first time of the criminal investigation and fraud charges being brought against Paula Vasco-Knight. The CQC were subsequently asked by NHS Protect to put the case on hold pending their criminal investigation. St George's University Hospital NHS Foundation Trust suspended Paula Vasco-Knight at this time. These are matters of public record.