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Welsh Government

Duty of Quality Consultation Questions

The Health and Social Care (Quality and Engagement) (Wales) Act 2020

Consultation on the statutory guidance required to implement the duty of quality and the replacement of the health and care standards (2015)

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Action required: Responses by 17th January 2023

Mae'r ddogfen hon ar gael yn Gymraeg hefyd /
This document is also available in Welsh

Submitted on behalf of **Learning Disability Wales**

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About Learning Disability Wales

Learning Disability Wales is a national charity representing the learning disability sector in Wales. We work with people with a learning disability and their families, Welsh Government, local authorities, disabled people's organisations and the voluntary sector to create a better Wales for all people with a learning disability.

What we are hoping to achieve by the introduction of the Duty of Quality.

The Duty helps realise the ambitions of A Healthier Wales and The Quality and Safety Framework in several inter-connected ways by placing improvement in quality and outcomes for the people of Wales as a central concept.

The policy objectives for this Duty of Quality are:

- To achieve a system wide approach to quality in the health service to secure improvement and shift the focus away from the narrower interpretation of quality which has a particular focus on quality assurance.
- For the new, broader Duty to require NHS bodies to exercise their functions in a way that requires them to consider how they can improve quality on an on-going basis. The aim is that improving quality and therefore outcomes for people will become an embedded and integral part of the decision-making process.
- To ensure that decisions taken by the Welsh Ministers support and contribute to this system wide approach to quality, by placing the Welsh Ministers under a corresponding Duty of Quality to that of NHS bodies.

Question 1

Is the Guidance clear on what we are trying to achieve with NHS bodies through the introduction of the Duty of Quality?

Yes

No

Please provide any comments or further explanation (in particular if response is no).

Who does the Duty apply to?

The Act lists the following individuals and NHS bodies as being subject to the Duty:

- Welsh Ministers (in relation to their health functions)
- Local Health Boards
- NHS Trusts
- Wales-only Special Health Authorities

The Duty is an organisational duty that applies to all health service functions and consideration should be given to its application in both clinical and non-clinical settings.

Question 2

Is the Guidance on to whom the Duty of Quality applies clear?

Yes

No

Please provide any comments or further explanation (in particular if response is no).

Arrangements between NHS bodies and other providers

As only identified Welsh bodies and Welsh Ministers are subject to the Duty, the Duty remains with them when procuring, commissioning, working in partnership or outsourcing. The requirement to meet the Duty does not pass to a third party, however, Welsh Government would encourage all other public bodies to consider the resources made available to support them in their decision-making.

Question 6

Is it clear where responsibility for the duty of quality lies in commissioned and hosted services?

Yes

No

Please provide any comments or further explanation (in particular if response is no).

Defining quality

For NHS bodies and Ministers in Wales, this means that quality is defined as continuously, reliably, and sustainably meeting the needs (both met and un-met) of the population that we serve. In achieving this, NHS bodies and Welsh Ministers will need to ensure that care and support services are ***safe, effective, person-centred, timely, efficient, and equitable***.

Every individual working within health and care services will need to understand what quality means to them, and the teams they work within. See the guidance document for detail.

Question 7:

Are the expectations of quality clear within the definition and six domains of quality?

Yes

No

The explanations of what each of these domains entails are extremely brief, with the explanation of all six domains encompassing fewer than three pages. This is particularly disappointing given that the Health and Care Standards (2015), which this Duty will be replacing, give extensive and thorough criteria by which their success can be measured. It is not clear to us why there are no such criteria in this proposal. Our concern is that these descriptions being so vague will make it much harder to see if the duty of quality is actually being fulfilled.

Quality enablers

Five core concepts underpin this blueprint to ensure a system-wide approach to improving quality:

1. **Visionary and compassionate leadership**
2. **Culture and valuing people**
3. **Measurement**
4. **Learning, improvement and innovation**
5. **Systems perspective**

Question 8

We have outlined five quality enablers that we believe are necessary to support the implementation of the six domains of quality. Is this explanation clear in the guidance?

Yes

No

As with the domains of quality, the descriptions of the enablers are quite vague. It would be good to have more detail here on how the mentioned factors will enable positive change within the NHS.

Question 9

Are there other potential 'enablers' that we should consider including in the guidance?

Yes

No

We note that the 2015 Health and Care standards have explicit mentions of staffing and resources, which are missing from this document. We understand that these are exceptionally difficult times for the NHS and that staffing levels and other resources can be hard to maintain. This, however, makes it just as important to have these principles embedded in this document. We suggest adding these, either as areas of quality or enablers of quality.

Experience has shown that building and embedding these concepts can take a number of years.

Question: 10

What supporting tools and materials will assist NHS bodies to fulfil their duty of quality under the Act?

We welcome the addition of “Equitable Care” to the criteria of good quality care. We note that people with a learning disability experience very significant health inequalities. We suggest integrating the Learning Disability Educational Framework for Healthcare Staff in Wales more closely into this plan to enable more equitable healthcare for people with a learning disability.

Providing information in an accessible format is extremely important, especially within health. There are many tools and guidelines available that can assist NHS bodies with making their information accessible including our guide to producing accessible information “Clear and Easy” (available to download for free on our website: https://www.ldw.org.uk/easy-read-wales/er-resources/.

Quality standards

The six domains of quality described before, together with five core enablers provide us with a framework for implementing and monitoring the Duty of Quality. We call this framework the Quality Standards 2023. Welsh Minsters propose withdrawing the Health and Care Standards 2015 and replacing them with these Quality Standards 2023.

Question 13

Do you think the incorporation of the new model for Quality Standards 2023 and the withdrawal of the 2015 Health and Care Standards is the appropriate measure to take?

Yes

No

This proposal offers some structural improvements to the new quality standards that may make it easier to enforce and monitor quality standards. However, we do have some concerns about the chosen quality criteria.

First, as mentioned above, the addition of providing more equitable care and closing health gaps is a very positive move. However, we are concerned that “Dignified Care” and “Staff and Resources” do not have an equivalent indicator in the new Quality Standards. Instead “efficiency” has been added to the criteria. We are concerned that this change draws focus away from delivering care that centres on the wellbeing and dignity of patients and, instead, justifies cost cutting and rationing of health care. In your description of “efficiency” you write that

“We make the most effective use of resources to achieve best value in an efficient way. We only do what is needed and undertake treatments targeted at those likely to gain the most

benefit, ensuring any interventions represent the best value that will improve outcomes for people."

This phrasing is deeply concerning. Who decides who will benefit most? Does this mean someone might be denied health care if they are seen as not improving enough? How will you avoid denying disabled people health care if they are seen as not "improving" enough due to other impairments or conditions they may have?

While we understand the necessity of being efficient in the face of chronic underfunding of the NHS, the idea that only "best value" treatment should be delivered is incompatible with the goal to deliver equitable and person centred care to everyone.

Finally, we also note how much more detailed the 2015 guidance is in terms of defining specific criteria against which quality can be measured. We urge you to include equivalent criteria here too.

Reporting

NHS organisations must report how they are doing on their quality journey to their population. Welsh Ministers must report to the Senedd (which will also be publicly available).

It is proposed that the commitment to report should be met in two ways - "Always on" Quality reporting supplemented by a narrative annual report.

Question 16

Is the guidance clear on what is meant by 'always on' reporting?

Yes

No

Please provide any comments or further explanation (in particular if response is no).

Question 17

Are the intended reporting systems ('always on' and a narrative yearly report) sufficient for NHS bodies to assure Welsh Ministers and the public?

Yes

No

Please provide any comments or further explanation (in particular if response is no).

We note that the reporting has quite a strong focus on quantitative data. While it does also include mention of “patient stories”, would like to see more qualitative and specifically co-produced material in the evaluation of this duty.

It is important that these co-produced parts of reporting are collected in a more structured way than just collecting patient stories. This means having patients (and especially patients who have different protected characteristics) centrally involved in producing the report and collecting patients’ experiences.

We are also concerned about the accessibility of this consultation process. There was an easy read translation of the consultation document but not of the statutory guidance itself. Without a translation of the actual document you are asking for feedback on, this consultation is not accessible. Instead, it created the illusion of inclusivity that could be harmful in that it makes it seem that people with a learning disability have a voice in this process, while in practice, there is no way for them to meaningfully participate in the process.

Integrated Impact Assessments

Throughout the development of these proposals, we have placed a high importance on taking equalities into consideration, including the impact of these changes on different groups, particularly those with protected characteristics under the Equality Act 2010[1].

From the work that we have done to date, including the engagement with groups with protected characteristics as part of our stakeholder and focus group sessions, we are of the view that the proposals are unlikely to have a direct negative impact on any one group. The duty of quality will benefit all users of NHS services in Wales. However, further information on the impact on groups with protected characteristics is sought as part of this consultation.

Question 20

What are your views on how the proposals in this consultation might impact?

- **on people with protected characteristics as defined under the Equality Act 2010[2];**
- **on health disparities; or**
- **on vulnerable groups in our society.**

Please provide your comments here:

[1] The Equality Act 2010 accessed at https://www.legislation.gov.uk/ukpga/2010/15/contents

[2] The following characteristics are protected characteristics from the Equality Act 2010—age; disability; gender reassignment; marriage and civil partnership; pregnancy and maternity; race; religion or belief; sex; sexual orientation.

We believe that the focus on more equitable care might have a very positive impact on disabled people.

We are concerned that the other parts of the duty of quality might have a negative effect on people with a learning disability if their rights are not explicitly safeguarded. Specifically we are worried about the idea of care being rationed and only available to those who would “most benefit” from the care. As mentioned in question 13 we are concerned that this concept might disadvantage disabled people with more complex needs.