Regulatory Policy Committee	Opinion	
Impact Assessment (IA)	Review of CQC registration requirements	
Lead Department/Agency	Department of Health	
Stage	Consultation	
IA Number	-	
Origin	Domestic	
Expected date of implementation (and SNR number)	-	
Date submitted to RPC	11/10/2013	
RPC Opinion date and reference	21/11/2013	RPC13-DH-1929
Overall Assessment	**AMBER**	

RPC comments

The IA is fit for purpose. The IA should be strengthened, in relation to the points below, in order to assist the consultation. The final stage IA should ensure that these points have been addressed prior to submission to the RPC.

Background (extracts from IA)

What is the problem under consideration? Why is government intervention necessary?

There is currently a legal requirement for Care Quality Commission [CQC] to issue a warning notice before bringing a prosecution, necessitated by the complexity of the existing regulations. This requirement makes it hard for CQC to prosecute providers in practice and as a result, CQC may be prevented from taking the most appropriate course of action to reflect the seriousness of a breach and providers may not always be fully held to account for their actions. Government intervention is required to revise these requirements to make them clearer so that the warning notice requirement can be removed. The results of the Francis Inquiry also recommended that the regulations be clearer and stronger enforcement action available where necessary.

What are the policy objectives and the intended effects?

The objective of the policy is to ensure that CQC regulation is as effective as possible, so that risks to service users are better managed and the quality of care is improved, whilst minimising the burden on providers. The registration requirements will be revised to make them clear enough so that CQC will no longer need to issue a warning notice before prosecuting. CQC will be able take stronger enforcement action via prosecutions where appropriate, whilst clearer regulation will also reduce the burden of regulation on providers. Overall there will be better safeguards against poor quality care and increased accountability where providers fail to meet the standards of care required.

Identification of costs and benefits, and the impacts on business, civil society organisations, the public sector and individuals, and reflection of these in the choice of options

The proposal aims to revise the CQC registration requirements upon providers and removes the need to issue a warning notice prior to prosecution. By revising the requirements the proposal aims to make them simpler and easier to follow and

reduce the burden of regulation for providers. The quantified costs (£8.6m NPV) are made up mainly of transition costs to providers and the cost of additional prosecutions to providers and the CQC. At present, these costs are just exceeded by benefits (£9.35m NPV) to providers resulting from time saved by the simpler regulations.

Impacts on Business. The IA says that "*we consider NHS Trusts, GPs and dentists as public sector organisations* "(paragraph 37). The IA does not appear to include private sector GP and dental practices in the assessment of impacts on business. The Department should use the consultation to assess the inclusion of these practices within the scope of the impact on business.

Costs and Benefits. The IA includes estimates of cost savings to new entrants and existing providers of "*spending less time to understand and interpret what the regulations mean*" (paragraph 70). Although the saving per existing provider is assumed to be a third of that for new entrants, the much higher number of existing providers means that this makes up the large majority of the savings. The final stage IA should provide greater justification for these savings to existing providers, particularly as savings relating to new members of staff in existing providers are covered elsewhere (paragraph 71). We also note that there are, at present, un-quantified costs (e.g. at paragraph 36).

We note that the IA has begun to develop quantification of benefits (paragraphs 63-65). The final stage IA should develop this more fully.

Non-Compliance. The IA includes the cost of additional prosecutions to providers in the NPV (table at paragraph 78) but excludes these from the business NPV and therefore the EANCB, because it assumes "100% compliance" (table at paragraph 79). The final stage IA should provide further explanation to justify this.

Business NPV and Summary Sheet. In separating out the costs to business (table at paragraph 79) the IA discounts the costs back to 2010/11 to arrive at the Business NPV figure. However, while this is the correct procedure to calculate the EANCB (although this should be to 2010 rather than 2010/11) it should be noted that the Business NPV should be presented in the same base year (and price base) as the overall NPV. At present the NPV and Business NPV on the front page of the IA are not directly comparable. This should be amended in the final stage IA.

Use of consultation. We note that the Department will be using the consultation to test the assumptions within the IA. These should include seeking information on the costs to providers in bringing an appeal (paragraph 54).

Sensitivity Testing. We note that the IA (paragraph 82) applies sensitivity testing to a series of scenarios resulting from varying assumptions within the IA. The final stage IA would benefit from the inclusion of further detail on the calculations involved in arriving at the revised NPVs and EANCBs.

Comments on the robustness of the Small & Micro Business Assessment (SMBA)

The IA provides a SaMBA at paragraphs 92-93. This appears to justify why small and micro-businesses should not be exempt and explains briefly how impacts might be

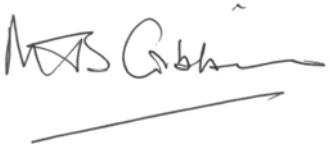
mitigated. The final Stage IA should provide information on numbers of small and micro-businesses affected, take into account the comments under '*Impacts on Business*' above and include more detail on how impacts will be mitigated. We note that a SaMBA would not be required if (as is presently claimed but not yet confirmed), this proposal is deregulatory.

Comments on the robustness of the OITO assessment.

The IA says (paragraph 84) that "*As the intention of the policy is to recast regulation in order to reduce burdens on business, we consider the policy to be deregulatory…and, as we calculate that the direct incremental economic benefit to business exceeds the direct incremental cost to business, we classify this proposal as an OUT…*" .The proposal does appear to make existing regulation easier for business to understand and this is currently estimated to result in net benefits to business. However, for this to be an OUT, the final stage IA will need to demonstrate further that this proposal is deregulatory and net beneficial to business. As part of doing so, it will have to:

i) Address the comments above, in particular that on "*Non-Compliance*" (as it would appear that the proposal is net beneficial to business only if the costs of additional prosecutions to providers are excluded);

ii) Clarify what is meant by paragraph 28, in particular the statement: "*Although there will be no change in the scope of the requirements on providers, the revision and rationalisation of the existing regulations may lead to the creation of new requirements in legislation in order to better bring out the most important concepts that providers must take account of*".

Signed  **Michael Gibbons,** Chairman