Opinion: Consultation stage IA
Origin: Domestic
RPC reference number: RPC-3051(1)-DH
Date of implementation: April 2016

Regulatory Policy Committee

Care Quality Commission fee raising powers

Department of Health

RPC rating: fit for purpose

Description of proposal

The proposal will ensure the Care Quality Commission (CQC) has sufficient legal powers to charge fees to enable full cost recovery. Without the proposal CQC would face a funding shortfall as a result of reduced "grant in aid" funding from government and from costs associated with the expansion of regulatory activity following the Public Inquiry into Mid-Staffordshire NHS Foundation Trust (the Francis Inquiry). CQC responded to the Francis Inquiry by introducing a new comprehensive inspection regime. Legal advice received by the Department suggests that the CQC's fee raising powers currently only cover inspection costs directly related to assessing compliance with registration requirements. Therefore, the current fee raising powers are not sufficient to enable full cost recovery in future. The proposed change to fee raising powers will ensure the CQC can charge for all aspects of the new inspection regime, such as the introduction of specialist inspection teams supported by clinical experts.

Impacts of proposal

The proposal will result in a range of fees being increased. This will affect public and private healthcare providers. The IA presents a detailed breakdown of how the fee increases are expected to affect different types of provider and how the levels will change over time. The most significant increases will predominantly affect public sector providers, including NHS Trusts (£38.6 million each year by 2025/6) and GPs (£34 million each year by 2025/6). Using industry estimates for the proportion of providers that are private businesses in the remaining sectors (as well as 6% of GPs) the Department estimates that businesses will be charged an additional £37.7 million each year by 2025/6. As a result of this figure being lower in the first three years this would result in an estimated equivalent annual net cost (EANCB) of £30 million.

The Department's assessment is that only a small proportion of this, less than £0.3 million in EANCB terms, would be in scope of the business impact target. For the reasons discussed below, this assessment appears reasonable at this stage.

Quality of submission

The IA, and additional information provided by the Department, sets out the details of the expected changes in fee levels and when they will take effect. As the Department has agreed to include the additional information on the timetable for the newer style inspections, the IA is considered to be fit for purpose.

The proposal and the timing of the changes to the inspection regime raise a new methodological issue relating to whether the fee increases should be considered in scope of the business impact target. Those elements of the fee increase intended to meet the increased costs of the 'experts by experience' inspections clearly relates to an expansion of the scope of regulation. However, except for a small proportion of the fee, this relates to a change in scope that took place during the previous parliament. This means the majority of the expansion in the scope of regulation took place prior to the relevant period of time for the business impact target.

Elements of the fee changes relating to expansions of the inspection regime since May 2015 will, however, be considered in scope of the business impact target, for example in relation to independent community healthcare providers. The fee increases are intended both to compensate for a reduction in "grant in aid" funding and meet the costs of the expanded inspection regime. It is only the fee increase associated with 'experts by experience' that should be considered in scope of the business impact target. While the RPC feels it is unfortunate that the majority of the costs will not be reflected in any regulatory account as a result of the timing of the changes, it recognises that this is consistent with the expectations of how the business impact target will operate. The RPC expects an updated Better Regulation Framework Manual to have been published in advance of the final stage submission, and the Department should ensure the methodology and assessment of the costs is consistent with that guidance.

While the RPC recognises that there is no intention to revisit the balance of the previous One-in, Two-out account, it notes that it is only the timing of the fee increase that avoided the majority of the additional £30 million annual cost being included in the government account for the previous parliament.

Small and micro-business assessment

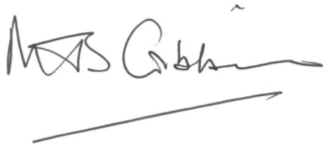
The small and micro-business assessment is sufficient for this stage in the policy development. The IA explains that fees are broadly related to the size of the business (for example in relation to the number of premises). The proposal will also not change how CQC structure their fees, only the overall amount. At final stage the Department should include more quantitative analysis of the number of small and micro businesses that will be affected by the increases and an assessment of the proportion of the overall fee increases that will be levied on such businesses.

Initial departmental assessment

Classification	Both - In scope (IN) and out of scope (fees and charges)

RPC assessment

Classification	Both - In scope (IN) and out of scope (fees and charges)
Small and micro business assessment	Sufficient



Michael Gibbons CBE, Chairman