



Jon Rouse
Director General
Department of Health
Richmond House
79 Whitehall
London SW1A 2NS

30th January 2015

Dear Jon,

Concerns from the Healthwatch network on lack of quality assurance of non-regulated services

I am writing to share with you concerns raised by local Healthwatch regarding the lack of quality assurance of adult social care services that are currently non-regulated by the CQC or are non-local authority contracted. Since these issues were escalated to us, we made Department of Health policy leads (Giles Crompton-Howe and Kevin Kitching) and our sponsor team aware of these issues in December 2014. We are increasingly concerned that:

- users of these non-regulated services (including self-funded and personal budget holders) have no means to make an informed choice of service based on quality and have no way of raising concerns about the quality of services they receive
- safeguarding mechanisms (including under the Care Act 2014) do not always cover these services impacting on the safety of all service users - in particular vulnerable users.

Nature of the concerns

- **Healthwatch Richmond** heard directly from the public that supported living environments are insufficiently regulated and are placing residents at risk. There are a number of supported living environments that are classed as private residences whose residents receive care via a domiciliary care agency. Healthwatch Richmond has raised concerns that these residences are not required to be registered with CQC and therefore the CQC is unable to inspect quality of services they provide. A number of these premises were previously registered as care homes but have since changed their status to become private residences.



- **Healthwatch Nottinghamshire** escalated concern about the lack of quality assurance of non CQC registered and non-local authority contracted services that provide care purchased with personal budgets that is not personal. These services can be purchased with personal budgets. For instance, we are aware of the case of an elderly user of a local private day care service in Nottinghamshire who purchased her care with a direct payment and who was not receiving the care that she required for her identified needs. Her family were concerned that it was leading to deterioration in the individual's health and escalated their concern to Healthwatch Nottinghamshire. This case highlighted the lack of clarity on what the complaints and redress system is for these services. In addition, we understand that there is a genuine difficulty for local authority safeguarding teams in investigating and inspecting such providers as they are neither CQC registered nor in any contract with the local authority.
- **Healthwatch Northamptonshire** heard from a day care centre user (an adult with a learning disability), who alleges verbal and emotional abuse and has been referred by the safeguarding team to Healthwatch Northamptonshire. Frustration for the local authority in Northamptonshire lies in the fact that this provider falls outside of the potential action they can take to protect vulnerable adults. The mother of the service-user contacted the county council Adult Safeguarding Team and was advised to contact Healthwatch Northamptonshire after the safeguarding referral did not meet the threshold for investigation (but was logged by Northamptonshire County Council). The service user's care is paid for by a personal budget and there is nowhere else for this person to complain if the provider's own complaints system does not work.
- **Healthwatch Enfield** heard from the local authority safeguarding team and the local CQC lead for care homes as they are concerned that they have no authority to inspect day care services unless the local authority has a contract in place. There are therefore a number of local day centres whose services are purchased by direct payment holders and are therefore non-regulated. They have heard from members of the public about day centres (used by people with personal budgets and direct payments), which clearly were providing personal care and were unregulated. There is a genuine difficulty with direct payments and personal budgets as the service user may choose to attend a wide range of settings (including art classes or the cinema) where it would be inappropriate for either the local authority or the CQC to inspect. Some day



care service providers are currently offering a personal level of care (e.g. toileting or feeding) which in other circumstances would be subject to regulation and inspection.

- We have heard from a member of the public who has raised concerns locally with **Healthwatch West Berkshire** and nationally about accommodation or services that fall outside of the CQC regulatory framework and are non-local authority contracted services. As you will see, Pearl Baker has launched a campaign to highlight a 'potential gap in the system'. Her *Follow my Journey* campaign includes photographs of real cases of individuals with mental health problems living in 'poor conditions' in accommodation provided by London and Quadrant Housing Association with help to residents to sustain independent living and maintain their home provided by Creative Support. They are a private organisation which is commissioned by West Berkshire Council. This organisation is not registered with the CQC for services provided to Garland Court which means no regulation or inspections taking place - see local press article <http://www.newburytoday.co.uk/2015/newbury-woman-accuses-council-of-neglect-and-launches-mental-health-campaign>.

Local Healthwatch are working with partners locally to ensure that, in the current situation, as much support as possible is being provided to users of these services. For instance, Healthwatch Nottinghamshire is working with the local authority to extend the use of "Choose My Support" which is an online directory for sale and purchase of social care and other associated services. Where immediate safeguarding issues arise, local Healthwatch are also raising this with their local Safeguarding Adults Boards who are attempting to take action.

We understand that under the Care Act 2014, a local authority should make inquiries, or ensure others do so, if it believes an adult is subject to, or at risk of, abuse or neglect. An inquiry should establish whether any action needs to be taken to stop or prevent abuse or neglect, and if so, by whom. Whilst we welcome these provisions under the Care Act, we remain concerned that these provisions will not address our main concerns highlighted above unless an adult is subject to, or at risk of, abuse or neglect.

We understand clause 1 of the Health and Social Care (Safety and Quality) Bill 2015-16 will seek to help prevent regulated health and social care services causing their users avoidable harm by ensuring that the requirements for registration with the CQC always cover safety. We welcome this but note this only applies in relation to registered services and will not address those services, as highlighted above which are not registered.



Given the national significance of non CQC regulated and non-local authority contracted services, the increasing use of personal budgets and direct payments, and the gravity of this issue felt by local Healthwatch, we would like to know:

- How you intend to address the current gap in the scope of regulation that we have identified
- In the interim, how you intend to address the risks that arise from the gap in regulation

We are aware that there is future work being planned on this 'grey area'; however we remain concerned with the current significant gap in policy in this area that is potentially putting individuals' health and wellbeing at risk.

Please note that we have committed to updating local Healthwatch on these issues so your response will help us to consider the next steps on this.

Kind regards

Dr Katherine Rake OBE

Cc: Charlie Massey, Department of Health