

ITEM: 09/144
Doc: 07

Meeting: Trust Board
Date: 18 November 2009

Title: **Care Quality Commission core standards declaration**

Executive Summary: The attached paper outlines the process for submission of the declaration of compliance with the Care Quality Commission core standards for 2009/10. As there have been changes to the process this year, and in light of new members attending the Trust Board, the process has been described in detail.

Trust Board again delegated responsibility for reviewing the evidence against each standard to the executive team. Individual directors presented the relevant evidence for each standard to the chief executive and another director on 22 October. The summary of this evidence and resulting proposed declaration was presented to November Audit Committee for agreement of submission to Trust Board.

One standard, **C10a**, was assessed as “**not met**”, due to a failure of routine registration checking processes for existing doctors in the trust for a period earlier this year. The situation has been rectified and processes put in place to prevent recurrence.

All other standards have been assessed as compliant. Trust Board are asked to agree the proposed declaration, for submission to CQC and publication on the trust website.

Action: to note the process for 2009/10 and agree the proposed declaration

Report from: Deborah Wheeler, Director of Nursing & Clinical Development

Compliance with statute, directions, policy, guidance

Lead: All directors

Reference:

Your guide to the core standards declaration, CQC October 2009

1. Introduction

With the introduction of the Health and Social care Act 2008 and the Health and Social care Act 2008 (Regulated Activities) Regulations 2009, all regulated health and adult social care providers will be required by law to register with the Care Quality Commission (CQC), and to do so they must show that they are meeting essential standards of quality and safety.

In January 2010, CQC will invite trusts to apply to be registered under the new Act and ask them to make a declaration of their compliance with the regulations, so that CQC can register trusts from April 2010. CQC intend that their resources, and those of trusts, should be focused on driving improvement in preparation for registration, rather than on inspections related to the outgoing standards.

Information received as part of core standards declarations will be used as part of the CQC cross-check of information to inform their decision on trusts' registration status in April 2010.

2. Core standards assessment for 2009/10

As part of the periodic review for 2009/10, CQC will, for the last time, be assessing all English NHS trusts as the applicable parts of the Government's 24 Standards for Better Health ("core standards"). There are several changes this year to the way organisations have previously been asked to make their declarations. These are:

2.1. to avoid confusion with providers' applications for registration, the core standards assessment will be primarily based on a mid-year declaration and will not be directly linked to a programme of inspections

2.2. CQC will be asking the boards of NHS trusts to make a public declaration on the extent to which they are assured that their organisation is compliant with the core standards for the first seven months of the declaration year of 1 April 2009 to 31 October 2009.

2.3. nevertheless, the assessment year is still the full 12 month period, so there is a gap between the end of the declaration period (31 October 2009) and the end of the assessment year (31 March 2010). CQC will therefore be asking trusts to notify them if there is an occasion when there has been a significant lapse in, or insufficient assurance of, compliance against a core standard after 31 October 2009.

2.4. CQC will not be asking for commentaries from "third parties" (representatives of people who use services and the public) as part of the core standards declaration. In relation to registration, they will be inviting those groups who submitted third party commentaries to trusts last year to send CQC information about aspects of trusts' performance. These groups include local involvement networks, overview and scrutiny committees, strategic health authorities and local safeguarding children's boards. This information will be used primarily to inform CQC decisions about whether to register providers under the new Act from April 2010.

2.5. CQC will use information from other sources, such as investigations, registration and special reviews, to qualify mid-year declarations or adjust their overall assessment of trusts' compliance for the year.

2.6. CQC will reflect the changes to this year's core standards assessment in their methodology for the scoring rules. They will publish that methodology later, but expect to follow a similar format to earlier years.

3. The Declaration

When making the declaration, the trust board must consider whether they have received reasonable assurance that the trust has been compliant with the core standards for the period of 1 April 2009 to 31 October 2009, and that no significant lapses have occurred.

3.1 Reasonable assurance

Reasonable assurance, by definition, is not absolute assurance. Conversely, reasonable assurance cannot be based on assumption. Reasonable assurance is based on documentary evidence that can stand up to internal and external challenge. In determining what level of assurance is reasonable, trusts must reflect that the core standards are not optional and describe a level of service that is acceptable and must be universal. CQC's expectation is that each trust's objectives will include compliance with the core standards, managed through the trust's routine processes for assurance.

3.2 Significant lapse

Trust Board should consider whether a given lapse is significant or not. In making this decision, CQC expects that boards will consider the extent of risk of harm this lapse posed to people who use services, staff or the public, or indeed the harm actually done as a result of the lapse. The type of harm could be any sort of detriment caused by a lapse or lapses in compliance with a standard, such as loss of privacy, or compromised personal data or injury. Clearly this decision will need to include consideration of a lapse's duration, its potential harmful impact and the likelihood of that harmful impact occurring. There is no simple formula to determine what constitutes a "significant lapse". This is, in part, because CQC's assessment of compliance with core standards is based on a process of self-declaration through which the trust board states that it has received "reasonable assurance" of compliance.

Determining what constitutes a significant lapse depends on the standard that is under consideration, the circumstances in which a trust operates, and the extent of the lapse that has been identified.

3.3 When completing the declaration, trusts will need to declare one of the following for each core standard:

Compliant: a declaration of "compliant" should be used where the trust board determines that it has reasonable assurance that it has been meeting a standard, without significant lapses, for the period of 1 April 2009 to 31 October 2009.

Not met: a declaration of “not met” should be used where the assurances received by the board make it clear that there have been one or more significant lapses in relation to a standard during the declaration period.

Insufficient assurance: a declaration of “insufficient assurance” should be used where a lack of assurance leaves the board unclear as to whether there have been one or more significant lapses during the declaration period. In circumstances where a trust is unclear about compliance for the declaration period, but has good evidence about the occurrence of a significant lapse during the declaration period then a declaration of “not met” may be more appropriate.

If a declaration of “not met” or “insufficient assurance” is made for a particular standard, the additional information is required in the declaration as follows:

- Start date from which the lapse occurred
- Date at which the trust expects to have assurance of compliance
- Description of the issue
- Action plan to rectify the issue

4. The Hygiene Code

Declarations will not include standards related to healthcare-associated infections. From 1 April 2009, all NHS organisations to which the Health and Social Care Act 2008 Code of Practice for the Prevention and Control of Healthcare Associated Infections applies were registered with the Care Quality Commission. Standards C4a (infection control) and C4c (decontamination) are therefore covered by the registration of trusts in 2009/10.

A declaration for standard C21 (clean, well designed environments) will still be required against element one, Element two of core standard C21 will not be assessed in 2009/10 as it is also covered by the CQC 2009/10 registration.

5. The Whittington declaration

Each of the core standards has an allocated lead director, who is responsible for collating the evidence to assure compliance with the standard, and to identify any possible gaps and take action to remedy the situation.

The same process as was agreed in 2008 was used to review the evidence against each standard. Trust Board and Audit Committee delegated this to the executive team, who each presented the evidence for compliance with each standard to the chief executive and another director for review on 22 October.

A summary of this evidence was presented to November Audit Committee and is attached to this paper for information. One standard, **C10a**, has been identified as **not met for the full year**. A member of the consultant staff became aware that they had not been on the medical register for some months, due to failure of processing their registration fees. This had not been picked up through the trust’s routine checks due to high turnover in the medical staffing manager post, which resulted in the routine monthly registration checks not being completed for some time. This has now been rectified and processes put in place to prevent a recurrence. Board should also be

assured that this did not affect any doctors newly appointed to the trust; all registration checks are undertaken separately as part of the recruitment process.

All other standards were assessed as compliant, however Audit Committee requested further details against several of the standards, as follows:

C8b: 62 per cent of staff appraisals have been completed to date

C17: additional evidence has been listed covering the role of governors, members, and friends. It was clarified at the meeting that the Haringey LINK representative attends Trust Board meetings

C20: procedures for complying with the Deprivation of Liberty safeguards have been added as evidence of compliance.

6. Proposed declaration

The outline summary of the proposed declaration is attached, showing all standards as compliant other than C10a, as described above.

Board members are asked to agree the declaration, for submission to CQC by the beginning of December.