

Themes in health and social care for 2022

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Recruitment and retention challenges

2021 saw the combination of two challenges – the first was a general under-supply of workers in the health and care sector, across many roles. This reflects longer-term trends, exacerbated by the end of freedom of movement and pandemic-related burnout. The second involved greatly increased and often unpredictable levels of staff absence, through illness or 'close contact' isolation.

Hopefully, as 2022 goes on, both challenges will start to be addressed. The Government has committed funds to increasing and upskilling the health and care workforce, with conjecture also about relaxation of immigration rules. Whilst Omicron is currently driving perhaps the worst levels of absence, we must hope that will subside and rules on isolation are relaxed.

What is unlikely to change is the approach of the regulator. Our clients have experienced little allowance from the CQC where these challenges have left them short-staffed. To avoid criticism, providers may have to consider scaling back services, worsening under-supply. Where that is not an option, providers must be able to evidence mitigation not only of safety risks but also of risks to person-led care.

CQC's New Strategy

The last two years have seen the CQC's regulatory approach continually attempting to adapt to the challenges caused by the pandemic. Routine inspections have been suspended, likely never to return in the same form.

In 2021, the CQC released its new strategy, with an ambition to be more data and service user experience led going forward. Much of the detail of how this will be achieved, including new assessment frameworks and engagement platforms, is to come in 2022. Another ambition is to raise the standard required for a 'Good' rating, which our clients tell us appears to already having an effect. With 40% of last month's ratings being Requires Improvement or Inadequate, they may well be right.

CQC prosecutions

The CQC's use of its prosecution powers has gradually increased since the implementation of the Fundamental Standards in 2015. 2021 saw a number of landmark cases. A non-registered manager was prosecuted under powers to prosecute directors and managers. An NHS Trust was prosecuted for maternity unit failings for the first time. The Dudley Group NHS Foundation Trust was fined a record £2.5m following two sepsis-related deaths.

We are aware of a significant number of ongoing CQC investigations. It remains the case that such investigations routinely take nearly three years to complete. Focus on NHS Trusts, and specifically A&E and maternity departments, appears to be a growing theme. The first case to conclude in 2022 focused on another recent theme, that of failure to prevent harm by one resident on another. As 2022 progresses, prosecutions will continue and new themes may develop.

Social Care Reform

In 2021, the Government announced its plans to reform social care including a tax rise (initially to clear NHS backlogs), a cap on social care costs from 2023 and various other reforms such as allowing privately-paying residents to arrange their care through local authorities to take advantage of the lower costs generally available to councils.

2022 will provide further details of those reforms and will see local authorities having to develop systems to perform their new roles. There will no doubt be significant scrutiny and debate about fairness, delivery and the effect on care providers as the year goes on with the potential for changes to plans as a result.

Mental health reforms

In 2021 the Government also set out its plans to reform mental health legislation. These included fundamental changes to the current approach, including in respect of tribunals, criteria for detaining patients with learning disabilities and/or autism and the introduction of statutory Care and Treatment Plans and 'supervised discharge'.

2022 is due to bring the draft legislation to implement these reforms. The process of preparing for implementation will begin for providers, commissioners and regulators.

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