

On the now totemic issue of single-word judgements, should the Care Quality Commission pause and reflect on its approach and consider a more nuanced system of inspection. Healthcare regulatory partner **Amanda Narkiewicz** from Mills & Reeve explores



A partial story

The Care Quality Commission (CQC) has confirmed it will learn lessons from the death of headteacher Ruth Perry, who took her own life after an Ofsted inspection, and is overhauling its training of inspectors. The regulator plans to roll out a training programme designed to support assessors and inspectors, improve risk assessment, identify signs when providers may be distressed and to take appropriate action, learn how to relay distressing news to providers and managers and how to have supportive conversations once those messages have been relayed.

It comes amid a series of concerns about Ofsted's method of inspection and more recently criticism from the House of Commons education committee report on the use of single-word judgements such as 'inadequate' and 'requires improvement'.¹

The report finds these 'reductive labels' have the capacity to stigmatise schools, teachers, and pupils. It makes several recommendations including the Department for Education and Ofsted should develop an alternative to the single-word judgements that better capture the 'complex nature of a school's performance'. It also calls for support for school leaders and training inspectors in dealing with distress and ensuring that they have the right expertise and behaviours during the assessment period.

The damning conclusion that an Ofsted inspection 'contributed' to the death of Mrs Perry has resonated with care home managers and providers.

Senior coroner, Heidi Connor, concluded Mrs Perry's suicide was 'contributed to by an Ofsted inspection carried out in November 2022' at her primary school in Reading.² Connor said the inspection 'lacked fairness, re-

spect and sensitivity' and was at times 'rude and intimidating'.

Caversham Primary School was downgraded from 'outstanding' to 'inadequate' due to safeguarding concerns after an Ofsted inspection.

Ofsted resumed school inspections on 22 January following a pause to train staff on considering the wellbeing of heads and teachers.

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Coroner's concerns

Connor raised concerns in her *Preventing Future Deaths* report that the Ofsted system allows for the single-word judgement of 'inadequate' to be applied equally to a school rated otherwise 'good', but with issues that could be remedied by the time the report was published, as to one failing in all areas.

She was concerned about the impact on school leader welfare that the system of inspection may continue to have. Care providers' ratings, similarly, can at times be dictated by a small

number of findings that can be remedied quickly and before the publication of the CQC's rating.

The roll out of the CQC's single assessment framework (SAF) and its aspiration to be a 'dynamic regulator' should mean ratings are updated in a timely way once concerns have been remedied. However, it will also mean the CQC will be quicker to downgrade ratings and take enforcement action.

The impact of an 'inadequate' rating, particularly for care providers, cannot be underestimated. That 'one-word' rating can often trigger, enforcement action, a financially distressing local authority 'embargo' (preventing new admissions), adverse local press, difficulty in recruitment and retention of staff, and home managers feeling exposed to public scrutiny from residents, their families, and the local community. All of this in our experience impacts a provider's ability to address the concerns that led to the rating.

The stakes are high for care providers. The recent last-minute closure of Ashdale Care Home in Mansfield is a salutary reminder of the CQC's power to cancel a care provider's registration and with immediate effect.³ The urgent closure of a care home can have potentially negative outcomes for residents and their families (and indeed care staff and the wider community) and cause immense distress to providers.

How dynamic the CQC's new approach will be in practise, of course, remains to be seen.

Rating limiters

Another concern raised by Connor was Ofsted's use of 'rating limiters'. In the CQC's recent board report,⁴ it distinguishes itself from Ofsted saying 'our approach does not use ratings

limiters', yet this is somewhat contradicted by its approach to scoring 'key questions' under the SAF published on the CQC's website, which does refer to ratings limiters in the scoring process:

By using the following rules, we can make sure any areas of poor quality are not hidden.

*If the key question score is within the **good range**, but there is a score of 1 for one or more quality statement scores, the rating is limited to requires improvement*

***outstanding range**, but there is a score of 1 or 2 for one or more quality statement scores, the rating is limited to good.*

CQC's Ofsted-style inspections

The health and care regulator's Ofsted-style ratings were prompted by the Mid Staffordshire NHS Foundation Trust Public Inquiry in 2013.⁵

The switch from the CQC's widely criticised hospital monitoring system was ordered by then health secretary, Jeremy Hunt, in the wake of Sir Robert Francis KC's report into the poor standards of care at Stafford Hospital where up to 1,200 patients died.

The new approach was adopted in the hope that it would drive up improvements in care as inspectors would be inspecting services against five key questions – is the service safe, caring, effective, responsive to a person's needs, and well-led before giving a rating.

The Ofsted-style inspection included the introduction of a four-tier ratings system that saw services rated as 'outstanding', 'good', 'requires improvement' or 'inadequate'. The then chief executive of CQC, David Behan, commenting on the new approach, said: 'It's going to be tougher and much more rigorous, and will be much clearer about when services are failing or inadequate.'

Ofsted learning

CQC, in its latest board report, considers the recent reports following the death of head teacher, Mrs Perry, as comparisons have been drawn with

its work and CQC's use of ratings to describe quality. Interestingly, CQC make the point that the quality of care provided by large healthcare settings is not usually perceived as the sole 'responsibility' of an individual in a comparable way: we expect registered managers may take a different view.

The regulator acknowledges it has had contact from a few providers and provider representatives to highlight the stress and pressure they experience on the ground and the impact of this on wellbeing and long-term recruitment.

In addition to reviewing the training of inspectors and assessors, CQC recognise there are 'further areas' where they 'must act'. Areas include:

- Review of quality assurance processes to ensure reports are published in a timely way, such that 'where there has been an unusually long delay between inspection of a service and publication of a report, consideration will be given to how any progress made since the inspection is reflected in any accompanying media materials at the point of publication to ensure an up-to-date picture of quality'
- Further guidance for providers to support on the SAF as they recognise it is a transition from an old model to a new one with new technology
- Review of the process for supporting the wellbeing of providers
- Review of other pathways for providers to raise concerns with the CQC which cannot be resolved by assessors and inspectors on site
- Reassess the call for an independent complaints process. However, CQC emphasis if providers are unhappy with the CQC's complaints process they have the right to contact the Parliamentary and Health Service Ombudsman via their local MP. This is a live issue for care home providers who have been calling for an improved pathway for complaints

CQC explain its new regulatory approach supported by the SAF is already moving towards several recommendations made in the *Beyond Ofsted* report.⁶

The new assessment reports are shorter, more concise and the single-word ratings reports will include a narrative and scores, which will provide more granular detail on how a provider meets the fundamental standards. And on the new technology, it will provide the CQC with the ability to update ratings more frequently which will 'reduce the significant pressure on providers of a single rating event once every few years'. As for inspections during an on-site visit these are intended to be 'more collaborative'.

Pause and reflect

As the CQC rolls out its SAF, it will continue to deliver one-word ratings despite many care home operators favouring a narrative judgement. Many argue that single-word ratings often tell a partial story and risk weakening services inspectors are seeking to improve.

The question remains, with Ofsted's single-word ratings of schools under scrutiny, should the CQC be persisting with one-word ratings going forward? According to a *Health Service Journal* article, the 'Commons health and social care committee, chaired by Steve Brine MP...had no plan to review the single-word ratings.'⁷

NOTES

- <https://publications.parliament.uk/pa/cm5804/cmselect/cmeduc/117/report.html>
- <https://www.judiciary.uk/prevention-of-future-death-reports/ruth-perry-prevention-of-future-deaths-report/>
- <https://www.nottinghampost.com/news/local-news/residents-treated-like-squatters-were-8795978>
- <https://www.cqc.org.uk/about-us/how-we-are-run/board-meetings>
- <https://assets.publishing.service.gov.uk/media/5a7ba0faed915d13110607c8/0947.pdf>
- <https://beyondofsted.org.uk/>
- <https://www.hsj.co.uk/policy-and-regulation/cqc-to-train-staff-in-relaying-distressing-news-following-headteachers-death/7036543.article>