Response to letter: "Failure to Involve Patients and the Public in the Commissioning of Immigration Detainee Healthcare"

Executive Summary

1. NHS England notes the formal complaint from Christine Hogg (Chair, Medical Justice) and Malcolm Alexander (Chair, Healthwatch and Public Involvement Association) pertaining to their claim that NHS England failed to consult "with individuals to whom services are being or may be provided, including changes to commissioning arrangements, when these may impact on the services received" in relation to the new service specification for immigration removal centres (IRCs).
2. Subsequent to this complaint, an audit within NHS England of those governance processes followed to develop and sign off the IRC service specification has been conducted.
3. Findings of this audit indicate that the perspectives of patients and patient advocacy groups were proactively sought throughout the process by NHS England and its partners, through:

    - The Health and Justice Clinical Reference Group (CRG) which reviewed and inputted to the IRC service specification;
    - Materials that were used to inform the development of the IRC service specification (e.g. the National Summary Report of Health and Wellbeing Needs Assessments for 2013/14); and
    - Various workshops and other stakeholder groups.

4. NHS England does not accept the suggestion made in the formal complaint letter. Further, NHS England is to engage in additional patient involvement and wider consultation as part of an ongoing and evolving process within the organisation, with a view to informing subsequent refinements to the IRC service specification in the future.

Recommendations

5. Medical Justice and Healthwatch and Public Involvement Association are made aware of the approach towards patient and patient advocacy group engagement that NHS England followed within the development process for the IRC service specification.
6. There is a review of the breadth of the participation of existing patient and patient advocacy groups within NHS England's ongoing stakeholder consultation activity for IRC service specification development. This is to ensure that Medical Justice and Healthwatch and Public Involvement Association can join those bodies that are already taking part in this activity going forward, if they are not doing so already.
7. All parties proactively commit to seek out additional ways to engage in joint discussions going forward.

Introduction

8. NHS England's legal responsibility for healthcare across the immigration detention estate in England was enacted by the Health and Social Care Act 2012. From 1st April 2013 NHS England has been responsible for commissioning secondary care, dentistry, optician and public health services across the country's IRCs.

9. Previously, the Home Office had been responsible for commissioning these services. The transition of the full commissioning responsibilities to NHS England from the Home Office was completed from 1st September 2014 for 9 of the 10 IRCs in England, with the transfer of Campsfield as the tenth and last establishment being completed in April 2015.
10. Section 13Q of the Health and Social Care Act 2012 (http://www.legislation.gov.uk/ukpga/2012/7/part/1/enacted) is titled "Public involvement and consultation by the Board", and relates to the requirement on commissioners to involve individuals (either directly or indirectly) to whom relevant health services may be provided during their commissioning.
11. This involvement refers to the planning , developing, and consideration of information and/or proposals by NHS England relating to commissioning arrangements where the implementation of proposals would have an impact on the manner in which the services are delivered to the individuals or the range of health services available to them.
12. On 9th March 2015, NHS England received a letter from Christine Hogg (Chair, Medical Justice) and Malcolm Alexander (Chair, Healthwatch and Public Involvement Association) registering a formal complaint which claimed that NHS England failed to consult on the service specification that it has developed for the provision of public healthcare services within IRCs.
13. The letter states that, in the signees' view, "the substantial changes taking place consequential to the transfer of commissioning of the healthcare for immigration detainees from the Home Office to NHSE, are of sufficient magnitude to require consultation with patients and the public". For the purposes of this document, it is assumed that they are referring to the involvement of patients and the public in the development of the IRC service specification that NHS England has developed.
14. The letter also claims that "The failure of NHSE to consult on Service Specifications, has already caused problems that might have been mitigated, had patients and the public been consulted", although it does not reference what these problems are or how they might have been mitigated. Therefore, these details are not addressed in this document.

Timeline

15. When NHS England received the commissioning responsibility for public healthcare in IRCs there was no existing formal service specification, other than a reference to provide these services as required.
16. As a result, NHS England developed a new service specification to ensure a robust procurement process could be followed. Being able to procure services and subsequently manage providers in a transparent and appropriate manner is critical for NHS England if it is to be able to achieve its overarching organisational objectives, which include:

    - Secure better outcomes, as defined by the NHS Outcomes Framework;
    - Actively promote the rights and standards guaranteed by the NHS Constitution;
    - Secure financial control and value for money across the commissioning system.

17. The value of the procurement was £7.5m. A procurement process of this order of magnitude typically takes 9-12 months to set up and run.

18. Therefore, to summarise, between 1st April 2013 and 1st September 2014, NHS England developed a new service specification for public healthcare services in IRCs and ran a procurement exercise to commission these.

Governance and materials

19. The development of the service specification for public healthcare in IRCs was managed through established governance structures within NHS England, including:

    - Health and Justice Oversight Group, which is the senior NHS England management forum for health and justice services, reporting in to the Commissioning Committee – the Health and Justice Oversight Group signed off the IRC service specification;
    - Health and Justice Clinical Reference Group (CRG), which provides expert clinical advice to support NHS England's function as a commissioner of public health services in secure and detention settings, and which has themed subgroups to address important topic areas;
    - IRC Assurance Group, which provides analysis and recommendations for consideration by the Health and Justice Oversight Group and Health and Justice CRG, and which commissions task and finish groups for key activities; and
    - IRC Service Specification Task and Finish Group, which led on the actual development of the service specification.

20. A number of materials were used to inform the development of the service specification. These included internal resources, as well as external reports. A key contributor to the service specification was the report developed to provide a national summary of the key issues identified in the programme of Health and Wellbeing Needs Assessments across the IRC estate in 2013/14 (prepared by NHS England and Community Innovations Enterprise). In addition, the individual component site assessments were also used from IRC Gatwick (including Cedars, Tinsley and Brook House), IRC Campsfield, IRC Harmondsworth and Colnbrook, IRC Dover, IRC Dungavel, IRC Yarl's Wood, and IRC Morton Hall.
21. NHS England, as the successor body to previous commissioning organisations, has significant experience in the development of service specifications for a number of other services, and the development of the IRC service specification was informed by the good practice and learnings that had been established from similar exercises elsewhere in its commissioning portfolio.

Patient and public voice

22. Since its inception, NHS England has sought to reflect patient and public voice in its commissioning activities. This takes various forms across its commissioning portfolio, including service user forums, public participation in meetings, patient surveys, and many others.
23. The development of the service specification for IRCs was no different. Service user input was sought through a number of different channels, including:

- Health and Justice CRG: Representatives of patient advocacy groups are invited to attend the meetings of this group, to provide an independent patient and public voice. In the past, Julia Charles (Chief Executive, Equalities National Council of Disabled People and Carers from Black and Minority Ethnic Communities) and Paula Harriott (Head of Programmes, User Voice) have fulfilled this role, for example. NHS England have a reasonable expectation that members will review and respond to materials that are tabled, and, where appropriate, share them at service user forums to gather feedback that can then be fed back into the CRG. Even when CRG members are not present at a meeting, materials and minutes are forwarded to them, and they can submit comments via the secretariat.
- Detailed discussion of the IRC service specification took place through a dedicated subgroup of the CRG. Draft services specifications and subsequent development workshops have all been visible to the CRG.

- National Summary Report of Health and Wellbeing Needs Assessments for 2013/14, and individual site assessments: The data collection for these reports involved interviews with staff, focus groups with detainees and the use of a detainee health needs questionnaire. The collective responses included:
    - Semi-structured interviews with 73 Healthcare and IRC staff around strengths, weaknesses and suggestions for change;
    - 19 focus groups involving 92 detainees;
    - A health needs questionnaire with responses obtained from 403 detainees; and
    - The summary report also drew on the Health Needs Assessment undertaken for Harmondsworth and Colnbrook IRCs by Central and North West London NHS Foundation Trust, which involved at least 179 staff questionnaires and interviews and 120 questionnaires with detainees in addition to various focus groups.
- This information was used in a number of ways, including being fed into the IRC Service Specification Task and Finish Group to inform its work.

- IRC workshops: In 2013 and 2014, a number of workshops were held for stakeholders (including those from patient advocacy groups) to discuss key materials, including the National Summary Report of Health and Wellbeing Needs Assessments, with a view to contributing to the development of the IRC service specification. The outputs of these sessions were again fed into the IRC Service Specification Task and Finish Group.

- NHS England quality visits: NHS England sub-regional teams can and do conduct quality visits of IRCs in their areas. These involve focus groups with detainees, to identify important themes and issues, and develop ideas around how to address these.

- Home Office stakeholder groups: Given the recent provenance of the IRC public healthcare commissioning prior to it arriving in NHS England, the IRC Assurance Group has maintained links with the previous commissioners (i.e. Home Office) to feed in its learnings from the stakeholder consultations that it ran prior to 2013.

Examples of how patient and public voice has been used

24. Mental Health
    - Detainee feedback in the Colnbrook and Harmondsworth IRC Health Needs Assessment indicated that 65% of respondents stated initially that they did not have a diagnosed mental illness (diagnosed by a doctor), but significant numbers then went on to say that they felt personally that they were unwell from a mental health perspective. Furthermore, shame and language problems were given as reasons for not seeking help.
    - Therefore, the IRC service specification reflected this concern over potentially undiagnosed mental health problems, requiring that providers provide advice and / or training to IRC staff in order to raise awareness and increase their capacity to meet detainees' mental healthcare needs.
25. Dentistry
    - In the Health and Wellbeing Assessment Report for IRC Campsfield, detainee concerns about access to dentistry treatment were noted. Some detainees reported having to wait several weeks to be seen and experiencing pain during this time. Also, it was unclear how detainees staying at IRC Campsfield for longer periods are able to access routine dental care.
    - In order to address these types of problems, the IRC service specification states that providers must provide access to a range of in-house primary care services including dentistry, and work with primary care providers of dentistry services to ensure agreed protocols are in place for referral and appropriate treatment, accompanied by a commitment to reduce detainee waiting times across all services. The provider also has to offer urgent care to detainees to reduce and manage pain.
26. Pregnancy services
    - The Health and Wellbeing Needs Assessment Report for Yarl's Wood IRC noted that the majority of detainees are single adult women. A number of these women tend to be pregnant at any time, and a particular a concern is when women are admitted to the IRC unaware that they are pregnant, which may be the result of a rape. Unsurprisingly, these residents are often distressed and require time to adjust to their pregnancy.
    - Recognising the unique nature of these health challenges, the IRC service specification contains an appendix specific to Yarl's Wood that requires the provider to provide support for pregnant detainees including ante-natal referral post release to ensure appropriate continuity of care. The specification also stipulates that the provider should provide pregnancy testing and counselling, a referral route to additional services for pregnant women, a referral route for termination of pregnancy, and ensure the provision of hormonal emergency contraception.
27. Smoking cessation
    - The Health and Wellbeing Needs Assessment Report for IRC Dungavel noted that more than half of detainees who were smokers were smoking more than 10 cigarettes per day, and more than 10% reported that their smoking was causing them to have shortness of breath. Detainees reported difficulties stopping smoking during a time of stress and anxiety, but several responded in the Health Needs Questionnaire asking for help to stop smoking.
    - The IRC service specification requires providers to develop and provide health education and advice, and health promotion. Smoking cessation is specifically mentioned as a programme to be provided, and ongoing health needs assessments must collect information around this. Furthermore, the service specification states that the reduction of smoking amongst detainees is a delivery priority for IRCs.
28. Medicines policy

- The East of England sub regional team conducted a quality visit to Yarl's Wood IRC where it conducted a focus group with detainees. During this session it was revealed that detainees' knowledge of their conditions and relevant medicines was not taken into account, and they were not trusted to provide insight into what medicines were suitable for them, based on their prior experience.
- The IRC service specification addresses this issue, by requiring the provider to promote an "In Possession" medication policy, in which detainees are encouraged to take ownership of aspects of their overall medicines requirement, including, where safe, the management of their own medicines on a day-to-day basis.

29. <u>Language barriers</u>
    - The Health and Wellbeing Needs Assessment Report for Gatwick IRCs noted that a high proportion of detainees do not speak English or have very little English, and so cannot engage in focus groups or complete questionnaires or surveys that are only in English.
    - As a result, the IRC service specification states that the information providers give to detainees about healthcare services, and also how to register complaints, should be accessible to those for whom English is not their native language.

Further patient and public engagement

30. NHS England recognises that seeking the patient and public voice is not a one off exercise, but rather it is an approach that forms the basis of an ongoing relationship with key stakeholders (including patient advocacy groups). Indeed, discussions have already been held with such stakeholders, including Medical Justice, to indicate that the service specifications will be reviewed annually, to amend / add service pathways as required, once it has been possible to collect "lived experience" data of the detainee's needs and demands.
31. Central and Northwest London Foundation Trust has invested in a patient engagement worker to improve service development through patient experience analysis in the Heathrow IRC. Learnings from this will be shared through the IRC Assurance Group.
32. NHS England's IRC Assurance Group is planning a number of additional activities for the future, including some stakeholder workshops around a number of key areas (e.g. a stakeholder event involving service users, clinicians and case workers to discuss Rule 35 in an IRC setting). These are to enable it to continue to refine its commissioning approach in the future. Patient advocacy group representatives will be invited to get involved in the workshops' planning, participation and data analysis.
33. The live IRC service specifications that form the basis of current individual provider contracts also mandate that detainees are regularly and effectively consulted in a variety of ways, to encourage their active involvement. Such detainee consultations are to include, amongst other things, reviews of the quality of current healthcare services they receive, and their involvement in the designing, planning and improving of healthcare services. Formal processes are also mandated within the IRC to ensure robust and regular detainee engagement, including a detainee forum with representatives of the current removal population. Reports are to be provided to commissioners, and providers must evidence how detainee feedback has made a difference to service delivery.

Summary

34. NHS England notes the formal complaint from Christine Hogg (Chair, Medical Justice) and Malcolm Alexander (Chair, Healthwatch and Public Involvement Association) pertaining to their claim that NHS England failed to consult "with individuals to whom services are being or may be provided, including changes to commissioning arrangements, when these may impact on the services received" in relation to the new service specification for IRCs.
35. Subsequent to this complaint, an audit within NHS England of those governance processes followed to develop and sign off the IRC service specification has been conducted.
36. Findings of this audit indicate that the perspectives of patients and patient advocacy groups were proactively sought throughout the process by NHS England and its partners, through:

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37. NHS England does not accept the suggestion made in the formal complaint letter. Further, NHS England is to engage in additional patient involvement and wider consultation as part of an ongoing and evolving process within the organisation, with a view to informing subsequent refinements to the IRC service specification in the future.

Recommendations

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40. All parties proactively commit to seek out additional ways to engage in collegiate, joint working going forward.

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