

# **Sector report for the Healthcare Commission and the Care Quality Commission**

**SDC – Review of Public Service Regulators**



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## 1. Introduction

This report sets out the findings of the Sustainable Development Commission's review of public service regulators, for the health sector in England. The review has covered both the Healthcare Commission and the Care Quality Commission (CQC), as well as the role of Department of Health (DH), where it is relevant to the regulation of sustainable development in the health sector.

Monitor (the regulator for foundation trusts) has been outside the scope of this review. However, the SDC has consulted with it at key points. The report includes an analysis of relevant contextual information, and an assessment of progress against the review goals set out by the SDC in the light of other recent developments. It then considers opportunities for the future and makes recommendations, focused chiefly on the CQC and DH.

## 2. Key messages:

- The CQC has significant ground to cover in order to match the progress on sustainable development made by other public service regulators. There are useful lessons to be learned from Ofsted and the Audit Commission
- The government has made it plain that sustainable development is within the remit of the CQC. The CQC's own definition of 'high quality care' and its mission statement are consistent with the principles of sustainable development and indicate their relevance to its remit and functions. Unfortunately, the CQC does not believe that sustainable development is a key part of their remit and as such has failed to pursue the sustainable development agenda beyond the scale of its own direct operations
- DH's decision not to include a duty to promote public health in the registration requirements for health and social care bodies represents a narrow interpretation

of the core functions of the NHS and a missed opportunity to pursue the government's sustainable development objectives

- Although the DH Sustainable Development Strategy includes a commitment to "include sustainable development in the CQC's performance assessment framework for the NHS,"<sup>1</sup> the Action Plan to deliver on this strategy includes no meaningful action to deliver this
- It is regrettable that DH includes the carbon indicator as a low priority in tier 3 of the NHS performance framework's 'Vital Signs', where trusts have the option to use it or not, and where the CQC has no scrutiny role
- The World Class Commissioning Programme offers a substantial opportunity to promote sustainable development, but this is not currently reflected in its vision, competencies, assurance system, or support and development framework. DH has expressed willingness to improve this position, and has made public reference to this intention, as well as organising a meeting with the SDC to discuss the opportunity
- Sustainable development is an underpinning principle of the CAA, and it is important for the health and social care sector to contribute fully to the process. The CQC has appointed 42 CAA leads, which is a positive development. However, it is not yet clear what training these leads will be provided with to enable them to support the sustainable development elements of the CAA
- Within the CAA organisational assessment, the application of sustainable development principles is demonstrated within the Use of Resources judgement. However, this applies only to PCTs

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[http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH\\_089049](http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_089049)

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- DH and the NHS have made significant progress on sustainable development (through the NHS SD Unit, the DH Sustainable Development Strategy and the NHS Carbon Reduction Strategy). However, without strong central leadership from DH backed up by regulation by the CQC, there is a danger that this agenda will remain marginal to health-related policy and practice
- It is important to clarify the respective responsibilities of DH and the CQC in relation to sustainable development, to avoid the danger of each looking to the other to act and neither taking the initiative
- We are encouraged to hear that Monitor is consulting on requiring foundation trusts to produce a sustainability report as part of the overall public reporting process. The recognition by Monitor that well-governed organisations should consider the sustainability of healthcare delivery is welcomed.
- Works in partnership with the NHS SDU and the SDC to develop a suite of sustainable development indicators for the health sector, using existing national indicators and developing new ones as necessary. These could be used by the NHS for performance management as well as by the CQC for a special review and for developing its assessment framework over time. The exercise could build on the Healthcare Commission's preliminary work on carbon metrics, and on the Good Corporate Citizenship assessment model. Care should also be taken to ensure alignment with SD metrics in other sectors, for example the Local Sustainable Development Lens for local government (see Annex 1)
- Extends the sustainable development elements of the Use of Resources judgement, which currently applies to PCTs through the CAA, to all health and social care bodies
- Takes into account any progress made in embedding sustainable development into the World Class Commissioning framework and works to ensure that PCTs' contribution to the CAA regarding commissioning and procurement is fully aligned with the Use of Resources commissioning and procurement key line of enquiry (KLOE 2.1) in terms of the emphasis on sustainable development outcomes
- Builds staff understanding of, and capacity to work, with sustainable development
- Signs up to the NHS Carbon Reduction Strategy
- Develops a Sustainable Development Action Plan

### 3. Recommendations

*We recommend that the Care Quality Commission:*

- Carries out a special review in 2010 of how far and how well NHS trusts are promoting sustainable development
- Seeks permission from DH to publish data on the tier 3 Vital Signs indicator on energy efficiency and carbon emissions in the periodic review, as an interim measure, hopefully anticipating its inclusion in tier 2 from 2010
- Implements the recommendations of the Healthcare Commission's preliminary work on sustainable development carbon metrics with the NHS SDU, which sets out possible indicators for the NHS based on current data

- Allocates a board-level champion for sustainable development.

*We recommend that Department of Health, in its contribution to the regulatory framework*

- Includes carbon indicators in tier 2 of the Vital Signs in the Operating Framework 2010/11. Initially, this would relate to direct carbon footprint, but it should be expanded to include the full carbon footprint as appropriate indicators are developed. Until this is done, the CQC will have no scrutiny role
- Includes robust references to sustainable development in the World Class Commissioning framework and accompanying guidance
- Includes public health in the registration requirements for regulated bodies, with compliance criteria which refer to Good Corporate Citizenship measures.

#### 4. Contextual information

During the course of this review, health sector regulation was in a state of transition with the new Care Quality Commission (CQC) taking over the work of the Healthcare Commission, as well as that of the Commission for Social Care Inspection and the Mental Health Act Commission. From October 2008 the CQC existed in shadow form, launching in April 2009 to regulate and improve the quality of health and social care and to look after the interests of people detained under the Mental Health Act.

Within this changing context the SDC tried to engage with the Healthcare Commission's key staff and policies to promote the case for applying the principles of sustainable development to the health sector's regulatory framework in 2008-09. The Healthcare Commission's previous work on sustainable development was collated in this project's interim

report, which can be obtained from the SDC's website.<sup>2</sup>

We have also sought to influence the remit and regulatory framework of the CQC to help it to maximise its contribution to sustainable development. The transition to the new regulator means there has been continuing uncertainty about the strategic and operational impact of the new regulatory framework. However, this transition should have provided a good opportunity to build sustainable development into regulatory frameworks from the outset. So far this has not happened.

Meanwhile, the importance of sustainable development has been increasingly acknowledged within the NHS. Significant pointers are listed below:

- *Choosing Health 2004* identified the role of the NHS as a Good Corporate Citizen (GCC) as one of five new priorities
- Sustainable development is included in the NHS Principles, in terms of 'sustainable use of resources' and recognition of the social, environmental and economic factors upon which good health depends
- Over 50% of all NHS Trusts have registered with the NHS Good Corporate Citizenship Assessment Model ([www.corporatecitizen.nhs.uk](http://www.corporatecitizen.nhs.uk)), which helps NHS organisations to assess and improve their contribution to strong local economies, community cohesion and a healthy environment through their day-to-day activities
- The NHS has established a Sustainable Development Unit which is funded via the Strategic Health Authorities. The Unit published the NHS Carbon Reduction Strategy in January 2009. The consultation on this strategy received a 66% response rate, and clearly signalled that in order for the NHS to be a key public exponent of sustainable development, strong, central leadership and regulation are needed

<sup>2</sup> [www.sd-commission.org.uk/pages/watchdog.html](http://www.sd-commission.org.uk/pages/watchdog.html)

- DH published their SD Strategy in October 2008, and the action plan detailing the delivery of this in July 2009. This has been developed through the High Level Group on sustainable development, which was established by Hugh Taylor, Permanent Secretary at DH.

While these developments are welcomed, there remains a strong role for the CQC and DH to build on these initiatives, to consolidate progress made to date and to ensure a more comprehensive engagement with the sustainable development agenda by all regulated bodies.

## 5. SDC engagement and advocacy

The original review goals as set by the SDC at the outset of this review are:

- The Healthcare Commission's Annual Health Check 2008/09 to include:
  - Voluntary application of the Use of Resources judgement for acute trusts<sup>3</sup>
  - A study of how well sustainable development is being taken up in NHS Trusts using the Good Corporate Citizenship (GCC) model
  - An element of GCC measurement within the public health area of assessment
- Care Quality Commission<sup>4</sup>
  - To support future registration requirements, which are set by DH, to include sustainable development

<sup>3</sup> The Use of Resources element of the CAA process incorporates sustainable development, but within the health sector is only currently applied to PCTs. See section 5.7 for further detail.

<sup>4</sup> Recommendations to the CQC relate to health and social care, although the frameworks shaping social care regulation have been less comprehensively considered, due to the initial focus of this review on the Healthcare Commission.

- Future compliance criteria set by CQC to include sustainable development
- To apply the sustainable development elements of the Use of Resources judgement to all health and social care bodies
- To carry out a performance review, at the earliest opportunity and no later than 2010, of how well sustainable development is being taken up by NHS Trusts

- Recognising DH's role, we have asked that:
  - The CQC's remit in the Health and Social Care Bill 2007-08 includes a duty to promote sustainable development
  - The DH Sustainable Development Strategy contains commitments to regulate for sustainable development in health and social care bodies
  - The NHS Operating Framework's Vital Signs includes environmental indicators.

Given the time-scale of the review, some of the review goals have been overtaken by events; the SDC has worked with the CQC on other relevant issues that were not included in these goals, as reported in the evaluation below.

### 5.1 The Healthcare Commission

Throughout this project the SDC has been in touch with officials in the Healthcare Commission to explore opportunities for promoting sustainable development through healthcare regulation. For example:

- In March 2008 we discussed our interim report with the Head of Strategy, heard what the Healthcare Commission was doing on sustainable development, and explored opportunities for the SDC to support them in furthering the sustainable development agenda
- In May 2008 one of our Commissioners attended a Roundtable event convened by

the Healthcare Commission as part of their follow-up to a report they commissioned on sustainable development

- In June and July 2008 SDC officials met with the Healthcare Commission to scope out potential work to develop carbon and broader sustainable development indicators for the NHS. This resulted in the Healthcare Commission commissioning the NHS Sustainable Development Unit and the SDC to develop carbon indicators, covering the full breadth of the carbon footprint.

### **SDC's view of impact**

The Roundtable event was a promising development, and could have built momentum for sustainable development within the Healthcare Commission. However it is not apparent to us that the regulator's senior leadership was prepared to build on this in any meaningful way.

From our discussions with DH and the Healthcare Commission, it appears that the relationship between the two bodies may have been another barrier to further action on sustainable development. The Healthcare Commission indicated that some of their key levers of influence (e.g. the criteria and standards for assessment) were subject to direction from DH. DH, meanwhile, cited light-touch regulation and devolution of responsibilities as the rationale for not pushing the sustainable development agenda in the health sector's performance framework.

Supporting work to develop carbon indicators is encouraging. However, it was delivered just before the Healthcare Commission handed over to the CQC. The report was published on the Healthcare Commission website only a few weeks before it was dissolved. It remains for the CQC to make use of this research.

## **5.2 The Healthcare Commission's Annual health check**

In March 2008 the SDC submitted a response to the Healthcare Commission's consultation on the annual health check 2008/09. The annual health check, first used by the Healthcare Commission in 2005, was designed to assess, on behalf of the

public and patients, whether NHS organisations are meeting the Government's standards such as those on safety and the quality of clinical care. It also aimed to encourage improvement by highlighting excellence and by tracking progress over time.

The SDC's consultation response set out the case for including sustainable development – as expressed through good corporate citizenship – in the 2008-09 health check. Some of the specific proposals and opportunities we identified were:

- As an absolute minimum, ensure that the annual health check 2008/09 reflects the Comprehensive Area Assessment (CAA) Use of Resources judgement so that all trusts, including foundation trusts, are assessed on measures similar to those of 'managing other resources.'<sup>5</sup> The Healthcare Commission should make public the results of this (including assessment of PCTs)
- The annual health check 2008/09 should include an assessment of sustainable development under the criterion of 'reducing health inequalities and promoting wellbeing' by using good corporate citizenship as an indicator
- The Healthcare Commission should assess CO<sub>2</sub> emissions and their reduction in the NHS, in line with the National Outcome and Indicator Set
- The Healthcare Commission should conduct a national study of sustainable development in the NHS.

### **SDC's view of impact**

In the SDC's view, the final version of the *Annual health check 2008/09: Assessing and rating the NHS*, published on the Healthcare Commission's website in June 2008 is a missed opportunity. It seems impervious to evidence-based warnings that "*climate change is one of the greatest threats to our health and wellbeing*".<sup>6</sup>

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<sup>5</sup> The Use of Resources element of the CAA process incorporates sustainable development, but within the health sector is only currently applied to PCTs. See section 5.7 for further detail.

<sup>6</sup> Ivan Lewis MP, formerly Minister for Care Services in *Saving Carbon, Improving Health* – A carbon reduction strategy for the NHS in England

None of the recommendations set out above has been taken on board, and none of the three goals for the Healthcare Commission, outlined by the SDC in the engagement phase of this review, has been addressed. The Annual Health Check did not apply the Use of Resources judgement (or anything similar) to all trusts; it remains only PCTs who are assessed in this way via the CAA – (see section 5.7 for more information); nor was the possibility of using good corporate citizenship, either within the annual health check 2008/9 or as a national study, followed up.

This has left the CQC with a significant amount of ground to cover in its first years to match the efforts of other public service regulators.

### 5.3 The Care Quality Commission

#### a. Role and remit

Throughout 2008 the SDC sought to help the Government fulfil its own sustainable development strategy which states that the Government:

*'would like to continue to apply sustainable development duties on new bodies as they are created, as appropriate to their role and remit...'*<sup>7</sup>

The SDC Chair met with the Secretary of State for Health early in 2008 to present the case for sustainable development to be written into the remit and operations of the CQC. The Secretary of State indicated that he was keen to promote sustainable development in the health sector. The meeting was followed up with written advice to Ministers and officials about why and how the Health & Social Care Bill could include a duty to promote sustainable development, and how a similar duty applies in other regulatory bodies. SDC officials also met with their DH counterparts working on the Health & Social Care Bill, which establishes the CQC, to learn about their position on the CQC and the emerging shape of the new regulatory framework, and to press the case for including sustainable development. A follow up meeting with Secretary of State was held in April 2009 to discuss the emerging messages of this Review.

<sup>7</sup> *Securing the Future, Chapter 7, section 2, pp 156-7*

#### SDC's view of impact

Despite early positive signals from Ministers, the Government did not support a sustainable development duty for the CQC. Nevertheless Baroness Thornton, speaking for the government during the Lords debate on the Health & Social Care Bill (30 April 2008), had this to say: *"I take this opportunity to put on record our intention to require the Care Quality Commission to publish information about the performance of NHS organisations and others in this vital area relating to how individual organisations are contributing to sustainable development"*. Her statement indicates that the Government considers sustainable development to be within the remit of the CQC and this view was reinforced by a meeting with the Secretary of State for Health in April 2009.

#### b. Registration requirements and compliance criteria

When the government consulted in the early summer on the *'Framework for the registration of health and adult social care providers'*, the SDC submitted a response to highlight the opportunities this offered for taking forward the government's commitment to sustainable development.

The registration requirements establish, through legislation, the essential requirements of safety and quality that health and adult social care providers are expected to meet to be registered and therefore to be allowed to deliver services. They are independently enforceable by the CQC. These registration requirements and the compliance criteria do not represent the limit of expectations for the quality of health and adult social care. Improvements above levels of essential safety and quality will be encouraged and secured by other levers in the system – for example, through assessment of commissioning, the Vital Signs, people exercising choice and the new Commission's review and report functions.

In its response to the public consultation the SDC made the following recommendations:

- a registration requirement that includes promoting good health through good corporate citizenship



- the requirement of *'making sure people get the nourishment they need'* takes sustainable development into account
- the requirements explicitly acknowledge climate change as a significant risk to health, business continuity and quality of care.

### **SDC's view of impact**

The response to the consultation was published in March 2009. Public health is not included in the registration requirements. The response to the consultation stated that the important role for registration is ensuring that providers protect the health and wellbeing of "individuals who use their services", and a wider community of service users only in response to emergencies. We consider that this offers an extremely narrow interpretation of the core function of the NHS.

The government also rejected the case for sustainable development principles being part of the registration requirements, responding that it was not an appropriate mechanism. This represents a missed opportunity to promote sustainable development, and makes it more critical that it be comprehensively embedded in the rest of the regulatory framework, in order to satisfy the government commitment as set out above.

### **c. CQC Regulatory Framework**

Beyond the registration requirements, health and social care regulation under the CQC consists of three main elements:

- Reviews of health and social care commissioning by PCTs and local authority adult social services departments. This review process is informed by the World Class Commissioning Framework (discussed below)
- Periodic reviews of providers of health and social care services, such as hospitals, and mental health services. This review process is informed by the 'Vital Signs' within the NHS Operating Framework (discussed below)
- Special reviews and studies of aspects of health and social care, separately and together.

The CQC regulatory framework focuses primarily on the quality of care, although will take forward the public health agenda in some ways, for example including monitoring of how commissioning and provision of services contribute to prevention of illness, reducing health inequalities and health protection. While this framework is in part constrained by DH policies such as the 'Vital Signs' and the World Class Commissioning Framework, plenty of opportunity remains for the CQC to take action to ensure sustainable development is incorporated.

In November 2008, the SDC's lead Commissioners for this review met with the Chair and Chief Executive of the CQC to explore further opportunities to embed sustainable development in the new regulatory framework for health and social care. The SDC felt that the discussion was promising and held out the possibility of a longer term consideration of this role, although no formal commitment was made.

The SDC has responded to the '*CQC reviews in 2009/10*' consultation in March 2009, stressing again the opportunities for sustainable development to be incorporated into the new regulatory framework. A further meeting with the Director of Regulation and Strategy in March 2009 also indicated some potential for progress. However, in a formal response received in July 2009 the CQC said that it does not believe sustainable development to be a key part of the remit, and as such could not commit to delivering any of the proposals, with the exception of ensuring that the direct operations of the CQC were as sustainable as possible. The CQC feel that it is not valid to compare their performance on sustainable development with that of the Audit Commission and Ofsted, because the CQC is 'not the regulator of all aspects of health and social care services'.

### **SDC's view of impact**

The SDC rejects any suggestion that sustainable development is not an integral part of providing 'quality care'. This would imply far too narrow an interpretation of care, and of the core function of the NHS. The definition of 'high quality care' within the CQC manifesto includes the following two elements:

- Help to prevent illness, and promote healthy, independent living.
- Represent good use of resources

Sustainable development is fundamental to providing both aspects of quality healthcare. Furthermore, a sustainable approach to delivering healthcare takes into account the potential benefits to public health of the corporate activities of the NHS. How the NHS behaves - as an employer, a purchaser of goods and services, a manager of transport, energy, waste and water, as a landholder and commissioner of building work and as an influential neighbour in many communities - can make a big difference to people's health and to the well being of society, the economy and the environment. A good use of resources, according to the CAA Use of Resources judgement, must represent real value beyond purely value for money in the narrowest sense. The CQC's mission statement also states that it intends to *'lead by example, with a strong commitment to diversity and sustainability'*.

In addition we note that it is the expressed intention of Government to *'publish information about the performance of NHS organisations and others in this vital area'* (see 5.3a) and, as reported above, the Secretary of State has expressed his support for this approach. The SDC is therefore in no doubt that sustainable development falls within the remit of the CQC. The SDC would like to see this acknowledged by the CQC and acted upon, given the importance of sustainable development across government and the public sector, and the level of progress noted within Ofsted and the Audit Commission. This is particularly pertinent considering that government's response to consultation on *'The future regulation of health and adult social care in England'*, that the CQC should *'take account of best practice among other organisations performing similar regulatory functions.'*

It is disappointing that no commitment has been made. In carrying out this review, the SDC have been subject to some conflicting messages as regards the remit of the CQC. If the remit is as narrow as interpreted by the CQC, then there is an unfortunate gap in regulating for sustainable development. We recognise the scale of the task

of setting up the CQC, and the bringing together of diverse organisations and responsibilities that it entails. However, sustainable development should be viewed as a vital cross-cutting theme, to be woven into the regulatory framework as it is developed, and not as an afterthought, bolted on at a later date. As with the Audit Commission and the CAA, the CQC has a real opportunity provided by the establishment of a new regulatory framework to engage with sustainable development from the outset. At this stage we can find little cause for confidence that it will deliver the sustainable development agenda.

#### **5.4 DH Sustainable Development Strategy**

During the spring and summer of 2008 DH developed a sustainable development strategy. The SDC supported this effort at a working level through meetings and comments on drafts, and through contributions via the department's High Level Group on sustainable development.

The strategy was designed to provide a strategic direction for the DH's work, and describes the conceptual framework which would underpin their decision-making on sustainable development in the future. It also set out to encapsulate DH priorities and outline a programme of action for sustainable development. The Sustainable Development Action Plan to deliver this strategy was published in July 2009.

#### **SDC's view of impact**

DH's new strategy is a notable achievement. *Taking the long term view: the Department of Health's strategy for delivering sustainable development 2008-2011* was published in early October 2008. It sets out some fine ambitions for the Department's contribution to sustainable development, for example: *"We want to lead this agenda by example. We want to make sure that the principles of sustainable development underpin our approach to leading the health and social care system, and to leading for Government on public health and well-being."* (p6)

The challenge is to ensure that the strategy gains traction and directly influences the decisions and activities of the Department so that it fully realises its ambitions for sustainable development in health and social care. In the context of this review it is important that DH commitments are backed up by strong action. A case in point is the Department's commitment on page 23 '*to including sustainable development in the Care Quality Commission's performance assessment framework for the NHS*'. The DH Action Plan for this strategy disappointingly does not propose any meaningful actions to deliver upon this commitment.

## 5.5 The NHS Operating Framework and Vital Signs

The **Operating Framework for 2009/10** sets out a brief overview of the priorities for the NHS over the next year. Within this there is a broad reference to the need for the NHS to be '*sustainable in the 21<sup>st</sup> century and focus on improving health as well as treating sickness*' and '*for each NHS organisation to measure and progressively reduce its own carbon footprint*'. This is accompanied by annexes which provide more detail on the health and service priorities for the year ahead, how they are measured and how the new arrangements for managing the system will work.

The Operating Framework includes a list of indicators or Vital Signs with three sub-sections:

- Tier 1 is the national 'must dos' – e.g. measures related to healthcare-associated infections
- Tier 2 encompasses areas where nationally there is work to do but organisations need a greater degree of flexibility about how they do it
- Tier 3 indicators are voluntary and PCTs need to identify (in consultation with local communities and partners) which are to be prioritised locally.

The CQC, DH and strategic health authorities (SHAs) will manage performance against the indicators in tiers 1 and 2 only.

In the Operating Framework for the NHS in England 2009-10, there is an indicator on energy efficiency/carbon emissions in tier 3 of the Vital Signs. During 2008 the SDC held discussions with colleagues at the Healthcare Commission and NHS SD Unit to develop and strengthen this carbon indicator in response to the findings of the NHS carbon footprinting work that was published earlier in 2008.<sup>8</sup>

Further meetings have also taken place with the NHS SDU, key DH officials and the Secretary of State for Health to raise the profile of sustainable development in general, and the carbon indicator in particular, within the Operating Framework. In our view, it is particularly important for the carbon indicator to move from tier 3 to tier 2 of the Vital Signs. This has not happened. It remains in tier 3 and only a very small percentage of PCTs have prioritised delivery against it.

### SDC's view of impact

We are pleased to see references within the Operating Framework to carbon footprints, and a broad reference to the NHS needing to be sustainable. However, this should have been strengthened by a more specific and meaningful reference to the sustainable development agenda. It is most disappointing that the Secretary of State has not agreed to give the carbon indicator greater prominence and impact in the Vital Signs by raising it from tier 3 to tier 2. The reason given for this decision was that it is DH's responsibility '*to lead and encourage the NHS to improve its energy usage and [contribute to] sustainable development and not burden it through additional regulation*'. This explanation is not satisfactory and sends a strong message that sustainable development and climate change have relatively low priority. The high level commitment set out in the DH SD strategy and the NHS Carbon Reduction Strategy *Saving Carbon, Improving Health* should have been accompanied action in the performance assessment framework for real impact to have been achieved. This represents a direct opportunity for DH to influence the way in which the NHS is regulated, and the lack of appropriately robust action undermines the

<sup>8</sup> [www.sd-commission.org.uk/publications.php?id=816](http://www.sd-commission.org.uk/publications.php?id=816)

leadership intentions expressed to date. Considering the ambitious targets set through the Climate Change Act, the logical response from DH must be a robust commitment in the Vital Signs. While there is another chance for the indicator to be promoted within the Vital Signs 2010-11, we have been given no assurance of an improved stance on this issue. Until this happens, the role of the CQC will be unnecessarily constrained.

## 5.6 The World Class Commissioning Programme

World Class Commissioning aims to deliver a more strategic and long-term approach to commissioning services, with a clear focus on delivering improved health outcomes. There are four key elements to the programme; a vision, a set of competencies, an assurance system and a support and development framework, all established by DH. It offers a substantial opportunity to influence the way in which health and care services are commissioned and delivered. Currently there is no meaningful inclusion of SD within this programme. Whilst many of the competencies may have sustainable development outcomes (i.e. working with community partners), the only explicit reference to sustainable development is taken to mean financial stability.

### SDC's view of impact

The World Class Commissioning Programme represents a second opportunity for DH to influence the way in which the NHS is regulated, and unfortunately this too has been wasted so far. It is disappointing to see the term sustainable development misconstrued by the very Government that set out an authoritative definition in the UK Sustainable Development Strategy, *Securing the Future*. DH has expressed a willingness to consider a more robust reference to sustainable development during the current review of the World Class Commissioning competencies; and have publicly expressed this intention in addition to organising a meeting with the SDC to discuss the opportunity. We have yet to see what this will entail in practice, but are pleased to note these recent developments.

## 5.7 The Comprehensive Area Assessment

Currently the Use of Resources element of the CAA process incorporates sustainable development by including assessment on sustainable procurement, and in other sections: an entire section, for example, deals with managing natural resources as one of the key lines of enquiry (KLOE)? (Section 4 of the *Review of Public Service Regulators*) However, as it stands, PCTs are the only health bodies to which this Use of Resources judgement will be applied. Furthermore, performance on the natural resources KLOE will not be assessed each year.

Another key element of the CAA is the area assessment. This offers opportunities for the CQC to promote sustainable development. Sustainable development is integral to the area assessment, as is set out in more detail within the sector report for local government. Judgements on how far an area is sustainable will be made using evidence from all the CAA regulators, including the CQC. There is an opportunity therefore for the CQC to ensure that evidence it submits helps to build a well-rounded picture of performance on sustainable development. In particular CQC will need to ensure that sufficient evidence is gathered to assess how the health sector is contributing to the sustainability of local areas.

### SDC's view of impact

The SDC would like to see the sustainable development elements of the Use of Resources judgement (both the commissioning and procurement; and use of natural resources key lines of enquiry) extended to all NHS organisations.

Sustainable development is embedded within the CAA area assessment. By taking a proactive approach the CQC could ensure that the NHS and other regulated bodies are fully tied in to this process, and they have expressed a willingness to do so. The recruitment of 42 CAA leads is a promising development but it will be important for sustainable development to be integral to their role. This opportunity is particularly important if, as we have been led to believe, the CQC is unlikely to take any early steps to

incorporate sustainable development into its own regulatory framework. The CQC has committed to working closely with the Audit Commission in the future.

## 6. Future developments and opportunities

The NHS has made some significant progress in engaging with sustainable development as a whole. Highlights include a high level of uptake for the Good Corporate Citizenship Model, the formation of the NHS SD Unit and the launch of the Carbon Reduction Strategy. While this progress is promising, there are consistent messages from the sector (for example via responses to the Carbon Reduction Strategy consultation) that without strong central leadership backed up by regulation, the agenda will remain in the margins. This landscape of progress along with demand for leadership should have offered a significant opportunity to the health sector to introduce sustainable development into its performance assessment and regulatory frameworks.

Despite some early positive signs of progress on sustainable development in health and social care regulation, there has been a disappointing lack of engagement from the CQC to date. After more than a year of focused engagement on these issues, the SDC is concerned that neither government nor those in charge of healthcare regulation are sufficiently pro-active in using the levers they have at their disposal to turn statements of interest and intent into meaningful action.

It is important to identify the separate responsibilities of DH and the regulator in delivering this agenda for the health sector. Otherwise there is a danger that each will look to the other to act and neither will take initiative or responsibility.

While the transition to a new regulator will have caused some disruption, there was much that could have been achieved within the life span of the Healthcare Commission. The *Annual Health Check* offered a suitable framework for inclusion

of sustainable development - a matter on which the SDC gave detailed advice in response to the consultation for 2008/9. With the exception of one or two individual officials, the Healthcare Commission seems to have used its imminent demise as a reason to avoid action on this agenda.

The formation of the new regulatory body, the CQC, offered a significant opportunity to build in sustainable development from the outset. The CQC still has the chance to learn from progress made by other public service regulators such as Ofsted and the Audit Commission, and to apply a similar approach. The CQC's own definition of 'quality care' gives ample opportunity to embrace the responsibility to monitor the performance of the health sector for sustainable development.

The role of government is not to be underestimated in ensuring that sustainable development is backed up by regulation. However, in the case of DH, many available levers have been poorly utilised. For example, government did not use the opportunity of legislation to fulfil a commitment in its own sustainable development strategy to include sustainable development duties for new bodies. DH did not support the case to promote the carbon indicator in the Vital Signs from tier 3 to tier 2. Instead, it left NHS senior managers to decide by leaving carbon as a locally-determined indicator, thereby jeopardising the good leadership intentions expressed in the NHS Carbon Reduction Strategy, *Saving Carbon, Improving Health*. It has also so far failed to incorporate meaningful reference to sustainable development within the World Class Commissioning Framework, another powerful lever. While the government has clearly expressed an intention to require the CQC to '*publish information about the performance of NHS organisations and others in this vital area relating to how individual organisations are contributing to sustainable development*' (see section 5.3a), this has not to our knowledge been formally communicated to the CQC. The CQC believe that much of the sustainable development agenda lies beyond its remit, such that it cannot commit to delivering any of the recommendations within this report, in spite of

precedents set by other public service regulators such as Ofsted and the Audit Commission.

These policy decisions create a picture of minimalist commitment to sustainable development. The CQC and DH have a long way to go before the health sector can be seen to “lead this agenda by example”.

## Annex 1: Sustainable Development Lens

Local Sustainable Development Lens (LSDL) is a voluntary basket of local indicators developed by the SDC and IDeA that can be used to guide and track area-wide progress towards sustainable development at the local level. The SDC proposes that the LSDL should act in three main ways:

- (a) As an interactive tool for **local authorities and their partners** for tracking area-wide progress on sustainable development at the LAA area level.
- (b) As a tool for the **Audit Commission and the other Comprehensive Area Assessment (CAA) inspectorates** to frame and inform their understanding of progress towards sustainable development at the local level.
- (c) As a means of providing the **UK Government** with a better understanding of local progress on its 'litmus test' priorities for sustainable development. It could also be used by the Government Offices in future rounds of LAA development to prompt to thinking about how LAA proposals contribute to the achievement of sustainable development. The Government has already agreed to adopt the Lens to track local progress against Defra's Departmental Strategic Objective on sustainable development.

### Key characteristics of the SD Lens

The LSDL provides a foundation for tracking local area progress towards sustainable development. SDC proposed that the LSDL should consist of up to three layers, depending on its use:

1. A **'core' set** of 19 indicators from the Government's National Indicator Set (NIS). These are the only indicators in the LSDL against which local authorities' performance, alone or in partnership, can be reported to, or performance managed by, Central Government. Taken together, these can be used to measure progress at the local level against Defra's Departmental Strategic Objective (DSO) on sustainable development.

- NI 17** Perceptions of anti-social behaviour
- NI 198** % of children walking or cycling to school
- NI 2** % of people who feel that they belong to their neighbourhood
- NI 4** % of people who feel that they can influence decisions in their locality
- NI 3** Civic participation in the local area
- NI 186** Per capita CO2 emissions in the LA area
- NI 188** Adapting to climate change
- NI 191** Residual household waste per head
- NI 197** Improved local biodiversity – active management of local sites
- NI 158** % of decent council homes
- NI 187** Tackling fuel poverty
- NI 199** Children and young people's satisfaction with parks and play areas
- NI 175** Access to services and facilities by public transport, walking and cycling
- NI 167** Congestion - average journey time per mile during the morning peak
- NI 172** VAT registered businesses in the area showing growth
- NI 152** Working age people on out of work benefits
- NI 116** Proportion of children in poverty
- NI 119** Self-reported measure of people's overall health and wellbeing
- NI 163** Working age population qualified to at least Level 2 or higher

2. **Three ‘additionally recommended’** voluntary indicators that the SDC believes should also form part of a holistic baseline assessment of sustainable development at the local area level. Taken together with the ‘core’ set, these form a small number of key environmental, social and economic indicators, based on the Government’s definition of a sustainable community which could be used to provide a more rounded picture of local progress on sustainable development. Unlike the ‘core’ set, these are voluntary indicators and, as such, can only be determined and performance-managed locally, for example through the Sustainable Community Strategy or as additional local LAA indicators. We are recommending that these are used as part of any tool for local authorities and their partners, and by the CAA inspectorates to provide contextual information on local progress towards sustainable development.

3. **A ‘supplementary database’ of indicators**, which could provide users with the flexibility to build on the foundation of the core and additionally recommended sets. These could be used to form a more locally-relevant, flexible and innovative LSDL. This is yet to be developed and so we recommended that this idea is explored as the LSDL is developed further by the different user groups, particularly by the IDeA and the CAA inspectorates.