

# putting people into public services

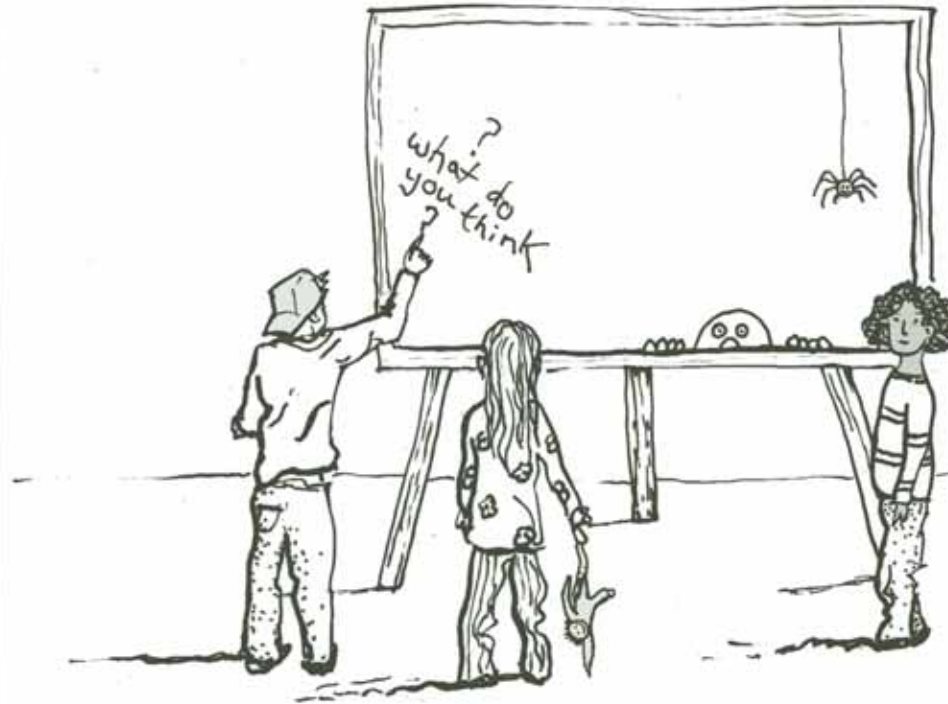
## better regulation and inspection

“Scrutiny bites across all topics and all types of services.” “Risk-based assessment is only as good as our assessment of risk at local level.” “They claim that they want local people to have a say in decisions about local services. But in reality, we don’t have a say. We are more like mushrooms.” “It feels as if all our comments go into a black hole.” “We are using a quantitative mindset to analyse qualitative data.” “We need to take the challenge out to the people. We can’t use existing structures, which only encourage the usual people to respond.” “I didn’t realise that’s what you meant when you talked about community engagement!” “It’s a good idea to involve the public because they are the ones that use the things, and that things are designed for, so if they have a problem they should be able to put their views across.” “No matter how enthusiastic you are about making local services better, as a minion you don’t have any influence.”

The National Consumer Council is working with a new generation of regulators and other stakeholders to turn the rhetoric of user-centred regulation and inspection into tangible benefits of practical action. We are helping to shape a new regulatory framework that acts as a catalyst, driving and reinforcing user-led public services.

‘People have a vital contribution to make to the assessment and regulation of services that impact on their everyday lives. They are often the best, and sometimes the only, judges of good outcomes.’

*Engaging people in healthcare regulation – a route map for action*



'The best way to improve local services and promote change is to listen to the people who use them every day and know them best.'

**Hazel Blears (Communities and Local Government press release, 13 March 2008)**

# People as co-producers of regulation

Engaging citizens in regulation and inspection is essential to achieving better services. The government has laid some useful foundations, including a more user-focused national performance framework and a risk-based, locally-focused approach to inspection. These are first steps in building a new relationship between citizens and regulators, through which regulators can deliver improved services to communities.

The whole point of assessing performance is to promote improvements in public services, as they are experienced by the people who use them. To understand what a service feels like on the receiving end, a regulator has to learn from service users, including those who are seldom heard: service users and the public must be seen not only as beneficiaries of regulation, but also its co-producers. They have a unique contribution to make.

People are often passionate about services, and willing to invest time and other resources. The NCC's extensive research finds that service users are aware of the limited regulatory resources<sup>1</sup>. They are ready to make tough decisions when asked to choose priorities and determine risk in regulation. This results in better services that people actually want, improves risk management and creates widespread support for regulation.

As we enter a new era of citizen engagement, our vision is a regulatory system that:

- ▶ is organised for the benefit of the people who use services, not for the convenience of regulators and the regulated;
- ▶ inextricably links efficiency, value for money and satisfactory outcomes for the people – especially as new and different providers enter the market;
- ▶ builds on continuous conversation with service users and the public – starting from where people really are, rather than from assumptions of how they might think and behave;
- ▶ makes the most of service users as the experts on what it feels like to receive a service; and
- ▶ builds popular support for difficult regulatory decisions.

The NCC worked with the Healthcare Commission on engaging communities in preparation for the new Local Involvement Networks (LINKs). LINKs are a major opportunity for regulators to adapt the machinery of regulation to engage with communities. Drawing out lessons for a new generation of regulators, the NCC produced a report that sets out a vision of user-centred regulation, and a route map for getting there. NCC found nine actions that underpin effective public engagement:

- ▶ create a positive culture;
- ▶ align organisational structures;
- ▶ turn information into meaningful evidence;
- ▶ clarify roles, rights, responsibilities;
- ▶ provide tailored training and support;
- ▶ provide adequate resources;
- ▶ enable dialogue and tailor communication;
- ▶ facilitate good networks and partnerships; and
- ▶ monitor, evaluate and disseminate.

# Regulators as catalysts of better services

Regulators are going to be central to the success of user-centred public service reform. They are uniquely placed to encourage local service providers, commissioners, strategic authorities and community organisations to listen to, and act on, the needs of the diverse communities they serve.

New, more user-focused regulatory frameworks are being developed across public services.

- ▶ The Audit Commission is developing a local assessment framework, the Comprehensive Area Assessment (CAA), to 'put the experience of citizens, people who use services and local taxpayers at the centre' when assessing councils, health bodies, police forces, fire and rescue authorities, and others responsible for local public services.
- ▶ The Health and Social Care Bill will establish the Care Quality Commission, a tough new regulator for health and adult social care services. We welcome the new body. However, we are concerned that the legislation is treating the voices of service users and the public at large as an afterthought. We, with the Picker Institute and and Which?, are campaigning to include measures in the Bill that give the new commission a duty to listen and engage with the public.

Public service regulators can drive the move to effective engagement, and reinforce user-led public services. Misfiring regulation can damage the public interest by providing reasons to do the wrong thing: the pressure of performance league tables and the threat of intervention can mean that providers lack both the incentive and the means to measure whether users are really happy with the services.

The danger is that services are then modelled on what satisfies regulators, not the public. All of this means that service commissioners are not including user-led criteria as a mandatory part of all contracts – for example, by insisting that all contracted staff treat service users with dignity and respect.

## Some way to go

While most regulators nowadays talk about service users and citizens, the rhetoric is not yet acted upon in their systems, cultures or ground-level activities. The view that regulation is a closed relationship between regulators and regulated organisations remains entrenched across public services; 'the professional knows best' assumes that inspectors have a superior grasp of the issues. Public service users are seen as passive recipients rather than as active participants with a valuable contribution to make. But it isn't only the public who are excluded by regulators: there is often a failure to harness the local knowledge of inspectors, other frontline staff, and other local statutory stakeholders.



'Regulators can be a real force for good – but first they need to exorcise their own demons. If they [regulators] don't live the message about the focus on people, and integrate it into all that they do, why should the services they regulate?'

**Public service user<sup>2</sup>**



'You need to take the challenge out to the people. You can't use existing structures – they only encourage the usual people to respond.'

**Service user<sup>3</sup>**

# Inside the regulator

The challenge, and the opportunity, is to establish a positive culture – to develop a modern regulatory environment that allows regulators to see people as an asset to, and a natural part of, inspection and regulation.

A positive culture is far more important and effective in making regulation user-focused than any guidelines or rules can be. This is because underlying cultural attitudes and values determine an organisation's behaviour. At the moment, service users and the public often view the regulators' conduct with suspicion. As they see it, the regulators' behaviour reflects its view that inspectors are the experts and citizens are, at best, being humoured.

These things take time: a sustained approach to citizen engagement will allow the regulator to settle into new ways of doing things. To establish this positive culture, the regulator will need to understand the attitudes and behaviours that work against it. Remedial policies and carefully tailored interventions must be put in place to counteract these attitudes: relevant, high-quality training on a rolling basis

will build capacity among the workforce, and support among colleagues will help to integrate engagement fully into the organisation's culture. It will take time to achieve a shift in underlying staff attitudes and working practices, and to foster organisation-wide ownership and commitment.

Of course, cultural reform cannot happen in a vacuum; it must be accompanied by structural reform. This is about changing the way the regulator does things. Existing structures and processes need to be adapted. For example, the regulator needs to align its processes for engagement to be flexible enough to accommodate the needs of different groups, in different areas, using different techniques, particularly where the voluntary and community infrastructure is under-developed.

- ▶ The Healthcare Commission's patient and public engagement champions know from experience just how important senior managers and line managers are to the regulator's culture. Where managers appeared cynical about the value of integrating service users' views and experiences into regulatory processes, they also tended to undermine the efforts of less senior staff. To drive a positive culture around engagement, senior post-holders and line managers need to have robust and specific leadership responsibilities.
- ▶ The National Institute for Health and Clinical Excellence (NICE) brings the public view to its decision-making by having a citizens' council as part of its structure. NICE recruited thirty people from all walks of life to advise a national health policy agency on the value judgements that underpinned its decisions. In its evaluation, the Open University found that the citizens' council added unique and significant value<sup>4</sup>.

# Collating and using meaningful evidence

There needs to be a fit between what works in engagement and what works in regulation. Regulators too often measure what is easiest instead of what is important to service users and the public. Rigid data analysis systems make it difficult for the diverse voices of different people to be captured and turned into meaningful evidence.

To make collected evidence more meaningful, some regulators have used lay inspectors, with good outcomes.

- ▶ The Commission for Social Care Inspection developed a scheme called 'experts by experience,' which involves people who use care services as part of an inspection team. Two evaluation reports say that this has improved the inspection process and brought real benefits<sup>6</sup>. The 'experts by experience' worked well with inspectors, and were welcomed by care homes and services.
- ▶ The use of lay inspectors by regulators of public services is well-established in Scotland. The Scottish Commission for the Regulation of Care piloted the use of lay assessors, and has now formally adopted the scheme. HM Inspectorate of Education in Scotland has over a hundred lay people involved in school inspections as well as further education colleges. This helps to ensure that all stakeholders' views are fully taken into account<sup>7</sup>.

Much of the machinery of public service regulation remains stubbornly focused on the measurement of outputs. The 'soft', outcome-based results that often really matter to service users, such as public satisfaction, social capital or community cohesion, are still too rarely reflected in inspections or regulation. Work by the NCC and the Local Government Association (LGA) has established that current systems for understanding the diverse range of user experiences in a local community are poor<sup>5</sup>. They do not deliver high-quality information about different groups of service users – nor do they help providers to improve services around the needs of their users.

## **A quantitative mindset**

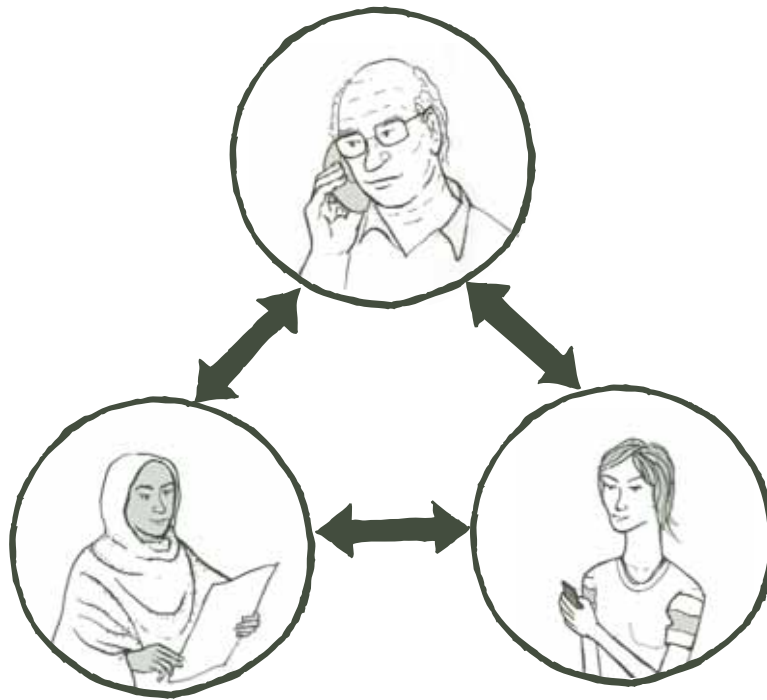
Regulators' data collection and analysis systems are mainly quantitative. They are not designed to capture and process the experiences communities tell them

about into 'usable' data. To turn people's feedback into meaningful evidence, the regulator needs a flexible and responsive analysis system that can deal with qualitative data. The voices of different people, including seldom-heard groups, need to be captured by different methods, depending on what works for them. A community organisation in Bradford, for example, made a DVD to present data on the experiences of homeless men trying to access healthcare services. Rather than the regulator 'imposing' a model, service users and the public should be able to choose what works. A flexible system should be able to process information gathered, for example, from interviews, deliberative workshops and on-line forums, in printed, aural, visual, or digital formats. A meaningful analysis system can track issues across different sectors, such as criminal justice and employment.



'As an "expert by experience", I find out what the service users and the carers really think. They will give me detailed information because they feel relaxed talking to someone who knows what it is like to rely on these services.'

**Expert by experience<sup>8</sup>**



'It feels as if all our comments go into a black hole.'

**Service user on providing comments to the regulator<sup>9</sup>**

'We need a communication conduit to reduce misunderstanding.'

**Service provider<sup>10</sup>**

# Communication is everything

Continuous, respectful and constructive communication is imperative between the regulator and service users, the wider public and key stakeholders. Effective communication will help to establish a shared understanding of purpose, avoid duplication, overcome power imbalances and maximise partnership potential to deliver better local services.

The Healthcare Commission had some cutting-edge ideas on how to improve its communications. With its consultative panel made up of service users and members of the wider public, the regulator piloted an instant messenger for panel members to comment on specific issues. To ensure inclusive participation, each computer-literate member of the panel was 'buddied-up' with a non-computer-literate member.

What engagement is, and how it is implemented, should be clear to the regulator, the service user, the public and other stakeholders. Responsibilities, expectations, accountability and available support should be clearly defined and underpinned by a common set of principles. Terms and conditions should be transparent and jargon-free. This will promote a shared understanding of the roles and processes that are necessary to make engagement happen.

Based on this shared knowledge, a culture of cross-collaboration can emerge between the regulator, citizens and stakeholders. Communication will be driven by the desire to improve services through co-produced assessment and regulation. It will help to flag up problems early and minimise conflicts of interest. Good communication will feature short, effective feedback loops that acknowledge contributions and highlight outcomes.

Clearly, there is no 'one-size-fits all' way to communicate with service users, the public and statutory stakeholders. Only a customised approach can make sure that the right stakeholders are engaged at the right times and in ways that suit them. For example, demanding input from a community organisation or an overview and scrutiny committee when they are under pressure to produce their annual reports makes quality contributions unlikely. The regulator should develop a communications plan that spells out what effective communication with each stakeholder aims to achieve, and what will make this happen. For example, no automatic assumptions should be made about seldom-heard groups. In some areas, students and those who work normal office hours are in fact the most difficult groups to reach<sup>11</sup>.

# Notes and references

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