Regulating the quality and safety of long-term care in England

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Political & Historical Context

- Care Standards Act 2000 set basic structure
  - National set of standards
  - National regulator, with powers to register, inspect & enforce standards
  - Covers care homes & home care agencies
  - Covers publicly & independently-owned providers
- **Many** revisions to approach, organisations & new legislation 2008
- Why the revisions?
- Costs of regulation too high. Call for less burdensome 'light-touch', proportionate, 'risk-based' regulation

Regulatory framework

- Health & Social Care Act 2008
- Reflects policy priorities of proportionate risk-based regulation, service users' outcomes central
- Established Care Quality Commission (CQC)
  - Regulates health care (HC), social care (SC), mental health
  - smaller, fewer resources, staff work across HC&SC
- New set of national standards (from 2010)

Essential Standards of Quality & Safety

- 28 standards
- ‘outcomes-focussed’, broadly-specified
- Example: Standard four:

  ‘the care and welfare of service users’
- Outcome statement:

  service users should ’experience effective, safe and appropriate care, treatment and support that meets their needs and protects their rights’

(CQC 2010d: 63)

Registration

- Prosecutable offence to operate without registering
  - Oct 2010-Mar 2011, 2/2 prosecutions for this
- Applicants declare compliance with standards & provide evidence
- CQC usually makes a site visit

Monitoring compliance

- Self-assessment encouraged & expected
  - Expect collection of data to demonstrate outcomes
  - No tools/measures prescribed
- Proactive monitoring by CQC
  - Inspections
  - Continuous assessment
  - No mandatory provider data collections

Inspections

- Annual, unannounced inspections, include site visit
  - also themed & responsive inspections
- Inspections focussed not comprehensive
- Experts by Experience – lay inspection team members
  - mixed evidence about improving quality of inspections
  - …but seen as politically important
- Inspection report published on internet

Continuous Assessment

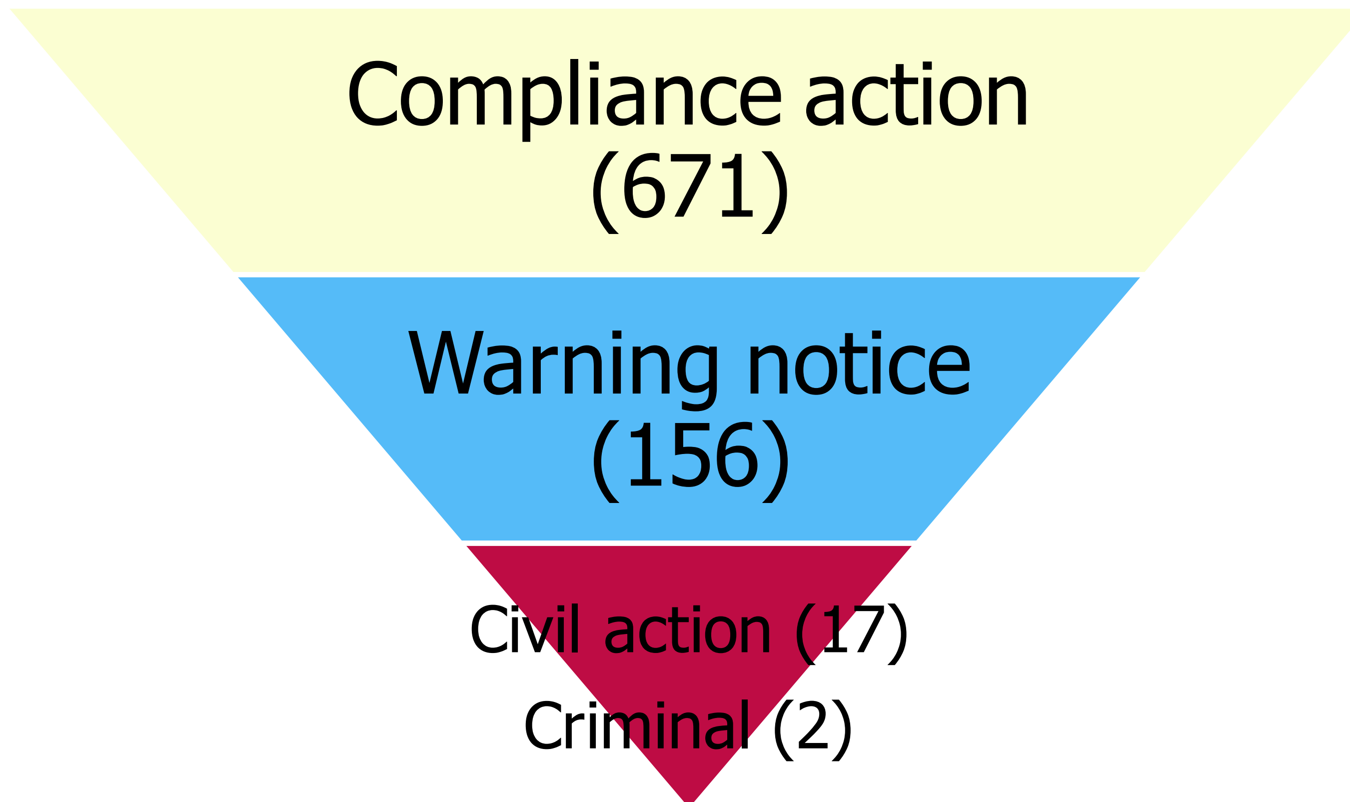
- Form of continuous surveillance, imported from HC
- Replaced previous risk-based monitoring system, inspection frequency guided by star rating
- How it works
  - Continuously gather available 'intelligence' about a provider into Quality & Risk Profile (QRP)
  - Use QRP to estimate risk of noncompliance
  - If noncompliance suspected launch more in-depth inspection activity
- But concerns about ability of system to identify noncompliance

What are the issues?

- Success depends on ability to predict noncompliance events
- No research to support ability to predict in SC, some evidence from HC, but varies by standard (Adil, 2008; Bardsley et al, 2009)
- Reasons to suspect prediction not as good as in HC
  - Many fewer data items (50 cf 500)
  - Some standards very few data items
  - Much data is qualitative – not random
- But no reason worse than previous system – suggest loss of confidence motivated by scandals

Sanctions & enforcement, Oct 2010 – Mar 2011

Example of 'responsive regulation'
Regulatory escalator



Where next?

- Expectation that regulation will prevent all abuses -- realistic?
- Regulation seen as expensive & burdensome
- Politically means constant flux -- move between risk-based/light-touch & comprehensive – v difficult to operate
- Need to change the conversation?
- Improve surveillance: improve QRP & demonstrate ability to predict noncompliance

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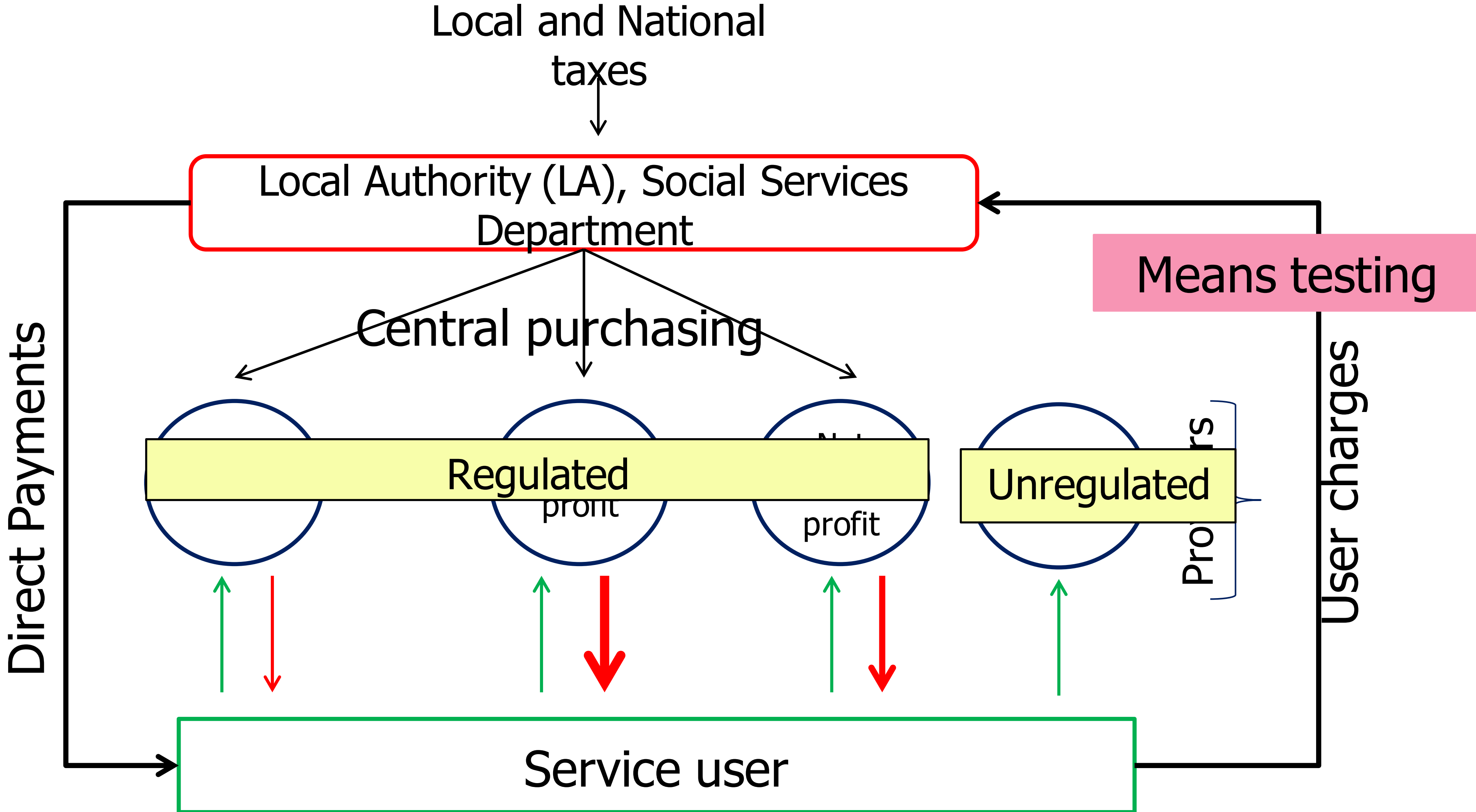
Organisation of LTC in England



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Home care provider compliance, Oct 2010 – Mar 2011

Standard	*Compliant %*	*Major Concerns %*	*Moderate Concerns %*	*Minor concerns %*	*Number of reviews[b]*
1. Respect and involvement	90	1	3	6	298
2. Consent to care and treatment	87	0.4	4	9	274
4. Care and welfare	73	3	7	17	344
5. Meeting nutritional needs	92	0	2	6	255
7. Safeguarding	83	3	5	9	333
8. Cleanliness and infection control	86	0	5	9	264
9. Management of medicines	75	2	9	15	295
10. Safety and suitability of premises	97	0.5	1	2	222
11. Safety, availability and suitability of equipment	94	0.4	2	4	253
16. Management of risk, health, welfare and safety	78	2	6	15	320
17. Handling of comments and complaints	90	0.4	3	7	284

How reliable are judgements about compliance?

- Standards specified aims to enable discretion & flexibility
  - Adapt to different circumstances
  - Adapt to innovative models of care
- 'Decision-making constrained by 'judgement framework' rules & criteria
- No research concerning consistency
  - Very little comparable data

Public reporting

- Provider profiles on CQC website
- Quality data lacking
  - QRP data not published
  - Star ratings abandoned
  - Proposed accreditation scheme abandoned
- Seen as big gap by industry – competitive pressures?
- Industry response – 'transparency & quality compact'
- Government response – Trip Advisor style rating sites