

# 4: Reviewing how we listen to our staff

## Key findings and recommendations for action

### Managing organisational change

This review found that:

- Overall, CQC did not follow its own best practice policies in respect of Management of Change (MOC) and the Trade Union Recognition and Facilities Agreement which could have prevented the breakdown in trust, confidence and communication which followed. This led to the collective grievance and a letter to the Secretary of State, with stories in the Health Service Journal.
- MOC had most recently been reviewed in May 2021 just prior to this reorganisation process, so it was current. Failing to follow MOC resulted in failing to apply CQC values which are set out clearly at the beginning of the MOC.

- It is important to recognise that there is a significant cultural understanding needed as to why these policies are important and ought not to be disregarded.
  - clause 1.1 of the MOC policy states, "It is important that our approach to managing organisational change is consistent with our core values. The relevance of those values to managing organisational change is demonstrated in the following ways...Excellence, Integrity, Caring and Teamwork...."
  - the policy also incorporates flexibility. Clause 3.2 of MOC states, "Structural change and staffing reorganisation exercises that might potentially involve redundancies and/or have a significant impact on employees (regardless of numbers) must be conducted in accordance with this procedure and the principles that underpin it. However, the procedure does allow for the necessary flexibility and management discretion to accommodate particular circumstances, including, but not limited to, localised and small-scale organisational change."
  - MOC procedure fulfils best practice and legal requirements.
- The review has highlighted a need for CQC's Senior Leadership Team (SLT) and Executive Team (ET) to read the policies and understand why they exist. They aim to maintain strong relationships, they enshrine CQC's values, they build trust and better communication with the workforce and by using them they address legal requirements, thereby safeguarding CQC.
- CQC had a good intention around not following the MOC Procedure, believing following it would increase staff anxiety by unnecessarily putting staff at risk of redundancy; however, that does not follow best practice and ACAS guidance.

- As of 31 January 2023 ongoing concerns from staff on the lack of detail and how proposed changes will be put into practise will be addressed by the new roles of 'Deputy Directors of Transition'.
- Only 9% of staff surveyed in the September 2022 Pulse Survey believed CQC effectively implemented change; key concerns included a lack of staff involvement, not listening when concerns were raised, and changes being rushed through which was felt to be against CQC's values.
- Some equality impact assessments (EIAs) were undertaken at key stages, but they did not consistently inform decision making. Some equality impacts also appeared to have not been adequately assessed or mitigated.
- There is evidence that public sector equality duties were not fully understood by all critical parties involved in EIAs.
- In the Grade B reorganisation, some staff felt compelled to state a preference for a role they may not have wanted due to a lack of information; however, over 95% of workers did get the preference they requested.

**Aim 2: CQC has a culture, supported by effective policies, processes and practices, to listen to, act on, or respond to concerns raised by colleagues, including advisory and complementary staff, about CQC. This means staff feel safe to speak up and that speaking up is invited, welcomed, celebrated, inclusive, listened to, and responded to well.**

It is recommended that CQC:

- Updates the MOC Procedure so there is a named Executive owner to receive a 'formal dispute', such as the Chief People Officer. However, if one or more Executive Directors have already been significantly involved, the dispute should be referred to a named non-executive director, such as the 'Senior Independent Director'.
- Updates the MOC procedure to consider pausing future significant organisational change activity where there is a significant impact on employees and when unions raise a formal dispute and request that the 'status quo' be applied; this should only continue once the dispute is resolved. CQC should consider engaging a senior legal officer to provide guidance to Senior leaders in the case of significant reorganisations.
- Improves the grievance resolution timeline in line with ACAS guidance on grievance procedures. This states that if there are 2 or more related grievances there is some flexibility in how to run the grievance procedure.

**Aim 5: CQC's culture, processes including governance, decision-making and outcomes comply with, and look to lead best practice regarding, the Equalities Act 2010.**

It is recommended that CQC:

- Ensures equality impact assessments (EIAs) are conducted in a timely manner, include all protected characteristics and actively inform planning and decision-making during the change process, as well as after the changes have been implemented.
- Undertakes EIAs for outstanding areas specifically in relation to all the Grade A changes including voluntary and compulsory redundancy.

- Considers positive action regarding the needs of the 1 disabled worker who was not given their first preference in the Grade B reorganisation. Also review workforce equalities data to identify any disparity of outcome by age.

**Aim 8: CQC has a culture, underpinned by best practice policy, processes and practices, where staff, including advisory and complementary staff, feel empowered to make a meaningful and timely contribution during change to support improvement and transformation. This should include ensuring there is learning from, and an adequate response to, feedback from formal consultation and informal engagement.**

It is recommended that CQC:

- Applies the MOC process in full in all circumstances where significant organisational change "might potentially involve redundancies or have a significant impact on employees". If there is a desire or need to deviate, this should be mutually agreed with trade unions or staff directly involved (and staff forum if appropriate).
- Offers formal 'trial periods' to staff who are taking up the newly created role of Assessor, and engage in co-design arrangements to be put in place for those who do not believe this is a suitable alternative employment.
- Ensures that key decision makers, such as the Executive Management Team and People Directorate, understand collective consultation and redundancy legislation requirements in detail and with proficiency.
- Ensures the Board is made aware and, via Board Briefings, is encouraging a focus on strategy, oversight and assurance on people-related issues, and considers having a non-executive director or independent member on the people committee for greater assurance.

- Updates existing and future transformation programme governance, management and delivery plans.
- Ensures the lead for transformation engagement is a full member of relevant programme groups where proposals and decisions are being made.
- When managing organisational change, ensures change management best practice is followed and embedded.
- Ensures that equality networks are involved as a key stakeholder in co-creation of engagement strategies.
- Carries out actions to contribute to staff feeling that 'change is effectively implemented at CQC', when managing organisational change.
- Improves staff experience on feedback. Indicate the time that Grade B Inspector and Assessor roles will work at and away from their contractual base and share this with staff. CQC should then enable staff to change their preference if they decide.

## Reasonable adjustments

This review found that:

- CQC's general approach to reasonable adjustments was founded on strong strategic aims, governed by policies and processes that advocated good practice, and were currently subject to quality improvement projects.

However:

- these processes were not consistently applied
- the overall approach was unstructured and did not always meet the needs of staff
- the level of ambition to improve reasonable adjustments did not match the time and resources available
- there were a number of common criticisms from staff.

**Aim 5: CQC's culture, processes including governance, decision-making and outcomes comply with, and look to lead best practice regarding, the Equalities Act 2010.**

It is recommended that CQC:

- Updates the Reasonable Adjustments Policy to incorporate comments from the Disability Equality Network group.
- Modernises the Flexible Working, and Critical Illness Policy and Procedures to recognise reasonable adjustments and make the tone more supportive. Approve them through groups, including staff networks.
- Revises the Workforce Disability Equality Standard 2022/23 action plan relating to 'reasonable adjustments'.
- Improves the process for agreeing reasonable adjustment requests, looking for alternatives if the request is impractical, unaffordable, or could cause harm.

- Ensures that the proposed means for tracking reasonable adjustments across CQC (as per the Workforce Disability Equality Standard Action Plan) is accessible to managers, who are enabled to access and review the adjustments for any new team members they are responsible for. The Disability Equality Network should support and inform what 'good' looks like from their perspective.
- As part of the onboarding and welcome process before all new staff start, including those on flexible contracts, any specific reasonable adjustments should be discussed and agreed to be shared with the line manager. However, CQC should also allow any disability to be kept confidential. All new staff should be referred to the Reasonable Adjustments policy and tailored adjustment agreement approach during induction – both new starters and new managers, so they understand what is available to them, and what they are required to do if relevant.
- Reviews and reduces the timeframe agreed, in partnership with the Disability Equality staff network, from when reasonable adjustments are requested to the supportive involvement of occupational health and the adjustments being delivered. There should be a centrally held record of all reasonable adjustments and requests to enable monitoring and tracking to deliver more rapidly, and to ensure, in organisational change, adjustments can be anticipated.
- Offers support and advice from occupational health when it is not known what adjustments may be helpful, or there is a concern on practicality, affordability or if it could harm the health and safety of others. 'Interim adjustments' should be agreed while this advice is being sought on the original request.



- Asks questions about a need for reasonable adjustments sensitively, understanding that it may have been difficult for the person to broach the subject. Although staff members only need to share information they are comfortable providing, they should understand CQC only needs to make a decision based on the information it is given.
- Agrees and delivers a minimum standard that ensures reasonable adjustment skills, knowledge and responsibility is delivered to all those with line management responsibility.

## Contracting advisory and complementary staff

This review found that:

- Before September 2022, there were no comprehensive policies or processes in place governing the appointment, contracting, deployment and disengagement of advisory and complementary staff.
- Since this time, a wide range of improvements have taken place, such as drafting an advisory and complementary workforce strategy and guidance, and establishing a working group to support these staff. However, there are some missing elements to the strategy and unclear governance and resources.
- Outside the more recent guidance, there was concern that current approaches were not aligned with CQC values and did not appropriately safeguard employment rights.

- When considering equalities workforce data for this group of staff:
  - there were high rates of 'Not Declared' against all other protected characteristics, so no significant conclusions could be drawn
  - the contract documentation for these staff appeared clear and in line with legal requirements, with the possible exception of annual leave entitlements.

**Aim 5: CQC's culture, processes including governance, decision-making and outcomes comply with, and look to lead best practice regarding, the Equalities Act 2010.**

It is recommended that CQC:

- Comprehensively reviews equalities workforce data for advisory and complementary staff by:
  - investigating drivers for high 'Not Declared' statuses and reducing levels of non-disclosure to below 5%
  - actively monitoring equalities data to inform planning and decision making to ensure no disadvantage occurs.

**Aim 7: Relevant CQC colleagues feel confident, skilled, empowered and supported to respond to concerns raised by other staff, including advisory and complementary staff, about CQC.**

**Aim 9: CQC's appointment, contracting, engagement, deployment and disengagement processes relating to advisory and complementary staff (non-substantive) are non-discriminatory, consistent with the values of CQC and ensure employment rights are maintained.**

It is recommended that CQC:

- Updates the advisory and complementary workforce strategy.
- Ensures a 'handbook' or similar suite of policies or processes are created to cover all advisory and complementary staff.
- Ensures that contracts being offered to staff (including extensions) are in line with each business need. They should not be tailored to avoid milestones that accrue key employment rights.
- Ensures measures are taken to recognise the skills, knowledge and organisational benefit of the advisory and complementary workforce in line with CQC's values, rather than simply a resource. This should include gathering insight into the experience of advisory and complementary staff (such as through a survey) to ensure they feel valued or to inform actions.
- Reviews and audits all staff members' appropriate entitlements, including leave and contracts, to ensure they are compliant.

## Why this area of work was looked at

In summer of 2022 a number of high-profile issues occurred that are now understood to have had a significant impact on some people in ways that were deemed inconsistent with the [CQC values](#).

The issues that were highlighted included:

- Concerns being raised by Trade Union (TU) officials that the management of **organisational change** for Grade A and Grade B structure levels did not include meaningful consultation with those it affected. These concerns were escalated internally within CQC, involved formal mediation with the Advisory, Conciliation and Arbitration Service (ACAS) and culminated in a letter being written to the national Secretary of State for Health and Social Care.
- Concerns being raised by some staff regarding the application and availability of **reasonable adjustments**.
- The Employment Tribunal findings of Mr Shyam Kumar Vs CQC. This highlighted that the process by which CQC disengaged Mr Kumar from undertaking future work was poorly handled, without proper explanation and at least in part influenced by protected disclosures he had made. This prompted interest in the **contracting** arrangements and procedures governing other workers on non-substantive contracts.

This section was led by an independent HR expert with substantial experience working in the health and social care sector, overseen and supported by a senior independent Chief People Officer.

## What was looked at

The terms of reference for this workstream were developed by considering the employment tribunal judgement and holding 2 initial focus group discussions. These group discussions were held with key stakeholders from CQC's equality networks and staff forum, and then with trade union representatives. A series of one-to-one interviews were then held with key management stakeholders to understand the highlighted issues in more depth.

The following were then agreed by the Listening, learning, responding to concerns review board to represent the critical questions that needed answers:

**1) Managing organisational change:** Regarding the 2021/22 Operational Directorate change process, which includes formal consultation and wider, informal engagement:

- a. what process(es) did we follow, and were they fit for purpose?
- b. was there a clear escalation and governance route understood by all?
- c. do we have effective procedures to learn from and respond to colleague feedback (both informal and formal)?
- d. to what extent did the changes account for the diverse needs of different staff?

**2) Reasonable adjustments:** To what extent is the current approach to making reasonable adjustments for applicants and CQC workers at recruitment and employment stages:

- a. applied fairly and consistently in line with the Equality Act?
- b. considered during management of change?
- c. implemented so no discrimination takes place?

**3) Contracting advisory and complementary staff:** To what extent are the appointment, contracting, deployment and disengagement processes relating to advisory and complementary staff (non-substantive):

- a. aligned to CQC values?
- b. consistent with processes for substantive staff?
- c. have appropriate safeguards to ensure decisions are made that do not infringe on employment rights?

It was acknowledged that, although there was a focus on policies and procedures, an equivalent focus needed to be given to staff experience and what is often called the 'psychological contract'. According to [CIPD](#), this relates to "the relationship between employers and workers and influences how people behave from day to day... built on the everyday actions and statements made by one party and how they are perceived and interpreted by the other." This was important to gain an understanding of the underlying culture of CQC, which was deemed a significant factor in the escalation of the issues. The term 'culture' can mean many different things, but in this context a broad sense of the term is used, summarised simply as "how things are done around here".

## Inputs

To inform this review and the findings, the following sources of evidence were relied upon:

- CQC's 'Our People Pulse Survey September/October 2022' findings, where 2,370 substantive staff participated, including free-text comments.
- Experiences from 165 staff, including:
  - 118 staff contributing through 13 focus groups
  - 47 staff contributing through one-to-one interviews.
- 332 pieces of documentation, totalling over 2,000 pages. This included: email correspondence; equality impact assessments; formal papers and minutes of meetings / committees; individual grievances and their associated documentation; previous review reports undertaken on related topics; contracts, policies and procedures; organisation change documents.
- Anonymised workforce data extracted from the Electronic Staff Record (ESR) system.

A 'mixed methods' approach was taken to research, using quantitative and qualitative information to understand the breadth and depth of issues. The reviewer's knowledge, skills and experience as a People Director were then used to determine probable links between areas and to arrive at the findings and recommendations below.

## Limitations

All reviews and research are limited in some way. The key limitations in this review were:

- Part of this phase review ran in parallel with Phase 1, which informed the 'contracting' element of this workstream; risks of gaps and duplication were mitigated by a key check-point meeting between the independent reviewers to share emerging themes.
- A qualitative, inductive approach was taken to data analysis which is a time-consuming process. It required in-depth reading and rereading of material to identify key themes. This limited the total number of people that could be engaged through focus groups and one-to-one interviews given the time available. Themes were corroborated from more than one source, and staff experiences were used to provide general examples of how things were perceived by them.
- This review commenced approximately 6 weeks later than most other workstreams, due to initial difficulty finding a suitable, independent reviewer external to CQC. This shortened the length of time available to gather direct experiences from staff. This was mitigated as far as possible by a thorough review of free-text comments from the Pulse Survey already available, as well as other comments from additional sources such as those shared during 'all staff calls' (which were captured as part of normal processes by CQC's engagement team [part of the 332 additional documents reviewed]).

## What was found from this review

### Managing organisational change

This area of the review sought to answer:

- Regarding the 2021/2022 Operational Directorate change process, which includes formal consultation and wider, informal engagement:
  - what process(es) did we follow, and were they fit for purpose?
  - was there a clear escalation and governance route understood by all?
  - do we have effective procedures to learn from and respond to colleague feedback (both informal and formal)?
  - to what extent did the changes account for the diverse needs of different staff?

## Context

To support the implementation of the Single Assurance Framework (SAF) and CQC's new organisational strategy, '[Our strategy from 2021](#)', the Executive team approved a substantial programme of projects that was to take place over several years. As part of this, the Executive agreed that a reorganisation would be needed.

Preliminary steps were taken in 2020 to lay foundations for this transformation programme, including placing limits on permanent recruitment. There were significant efforts at engagement during 2021 to understand the perspectives of internal and external stakeholders, and what would be important to them.

A 'Portfolio Programme' business case was written and approved in May 2021. This outlined the extent of the aspiration, the potential challenges and the level of resource that would be needed to bring about anticipated benefits. The following points were noted, which are relevant to this review:

- Key risks included 'culture change' and 'capacity', where "strong and consistent change management" would be needed, along with "effective resource plans" and staff engagement would need to be monitored through "temperature checks throughout design, delivery and implementation".



- Critical success factors included 'communications and engagement' and 'capacity for change delivery', requiring "both involvement in design and clear consistent messages are delivered to the stakeholders who are impacted by the operating model change" and "expert change and implementation resource to shape and deliver the new capabilities will help the organisation move through the transition smoothly".

During 2021, the CQC transformation programme started its staged approach to restructuring, beginning with the Executive team. Executive levels 1 to 3 were reorganised, which fall outside of the scope of this review.

Toward the end of 2021 discussions started to focus on the design of the Operations directorate, scheduled for implementation during 2022. This directorate comprises the majority of CQC's workforce (approximately 2,000 people) and staff deliver CQC's inspection activity. The reorganisation of Grade A Inspection Manager and Grade B Inspector roles are the focus of this section.

## What process(es) did CQC follow, and were they fit for purpose? Requirements when managing redundancy situations

In law, a redundancy scenario includes when there is an agreement to ['change the types or number of roles needed to do certain work'](#). Authority is given to the Advisory, Conciliation and Arbitration Service (ACAS) [guidance](#), that states when more than 20 employees are 'at risk of redundancy', before beginning consultation, [CQC] must provide trade union or employee representatives with the following in writing:

- why you need to make redundancies
- how many redundancies you're considering
- roles at risk of redundancy (in a 'selection pool')
- your current ideas for how to select employees for redundancy
- your planned timeframes

- how you'll calculate redundancy pay.

Critically, this includes those who may be redeployed or moved to alternative roles and not just those who may be dismissed for reason of redundancy.

Further ACAS [guidance](#) also states that "you might have a workplace policy or agreement that says you must collectively consult a trade union or employee representatives, no matter how many redundancies you're planning", and it is still "good practice to collectively consult even if you do not have to".

## CQC procedure

CQC has a comprehensive CQC Management of Change (MOC) procedure. This is in line with best practise and fulfils all legal requirements above. The opening of the Procedure (v3, May 2021) outlines a commitment to approaching organisational change in a way that "is consistent with our core values". Also, in line with ACAS guidance, it states, "We aim to work closely with our employees and the trade unions in managing such changes, including undertaking timely and meaningful consultation with a view to reaching agreement on key issues, in accordance with all legal requirements and commence consultation as early as is reasonably practicable."

This MOC Procedure also states, "Structural change and staffing reorganisation exercises that might potentially involve redundancies and/or have a significant impact on employees (regardless of numbers) **must** be conducted in accordance with this procedure and the principles that underpin it." **[reviewer's emphasis]**.

## Grade A reorganisation

The CQC Management of Change (MOC) procedure (v3) was said by CQC management to have been enacted. Evidence showed that the reasons why CQC was proposing changes were well known and understood. Focus groups showed a high level of staff agreeing with the strategic direction. However, the evidence shows the following requirements within CQC's procedure were not performed:

- The evidence shows that on 28 April 2022, the Executive Team Design Authority (ETDA) agreed a reduction in budgeted establishment at Grade A. This should have been the time from when the unions needed to have been collectively consulted with.

**Figure 3: Proposed changes at Grade A – details taken from ETDA paper, 28 April 2022**

Role	Original budgeted WTE	Planned WTE	WTE at risk of redundancy
Grade A inspector manager	196.06	0	all
Operations managers	* new role *	119	
Senior specialists	* new role *	48	
Delivery managers	* new role *	7	

- Unions were not then provided with a plan and proposed timetable for the detailed consultation process.
- Unions were not consulted on "proposals for job assimilation and ring-fencing arrangements for appointments to post in the new structure". For example, unions were not consulted on proposals to ring-fence Operations Manager positions, but not 48 WTE 'Senior Specialist' roles.
- Unions were not consulted on the use of a voluntary redundancy scheme, or the selection criteria for voluntary redundancy.
- Individuals were not provided with a clear structure that included the number of roles available.

- There was no clear evidence that it was explained to staff that they were at risk of redundancy, and how many redundancies were being considered in total.

## Grade B reorganisation

For Grade B Inspectors, all evidence confirms that the MOC procedure was not followed. However, the evidence suggests that it should have been.

In January 2022, the ETDA approved the creation of multi-disciplinary teams, where the responsibilities of the Grade B Inspector role would be devolved into 2 roles. The job matching form indicates the intention that, "All the current activities of the role will continue but differently weighted between 2 roles". One role would keep the title of 'Inspector' with a revised focus "to deliver cross the threshold elements of assessment, (including inspection) and civil enforcement". The other would be a new role entitled 'Assessor', which would focus on an "ongoing view of quality, safety and risk through ongoing assessment, taking decisions to initiate regulatory activities".

Job descriptions for these roles were created and preliminarily assessed as Grade B on 3 March 2022 by a member of the People Directorate. This person judged the revised role of Inspector to be 'significantly similar' to the original, but not the Assessor role.

There was a clear commitment made at Executive level that there would be no compulsory redundancies at Grade B. This was shared in an announcement to staff on 3 March 2022. This was a noble commitment that was aimed to provide reassurance to the biggest cohort of staff at CQC (approximately a third of the workforce) about the upcoming changes.

To secure this desired outcome of no staff being dismissed for reason of redundancy, a proposal went to ETDA in March 2022 to suggest that the MOC procedure should not be followed. Instead, it was suggested that the revised roles be "socialised" in May and June, which would then be followed by a "preference exercise". This preference exercise would be a form that staff would be asked to complete to choose which of the two roles they would prefer to be placed into. This was agreed at a meeting on 10 March 2022.

A proposal was agreed at a meeting of the ETDA on 28 April 2022 to reduce the budget of Grade B level staff by 88.27 whole time equivalent (WTE), reducing that part of the budget by -£4.6million. It was agreed that this money would go toward the creation of 119 WTE new Grade C 'Co-ordinator' positions (+£4.97million).

Evidence suggests that at this time there were 1027.57 WTE in the position of Grade B Inspector, which suggests this proposal put 25.77 WTE staff at risk of redundancy.

**Figure 4: Planned roles at Grade B and C – ETDA paper, 28 April 2022**

Role	Original budgeted WTE	Original contracted WTE	Planned WTE	WTE at risk of redundancy
Grade B inspector	1090.07	1027.57	1001.8	25.77
Grade C coordinator	* new role *		119	

During interviews with CQC management it appears there were some verbal discussions about 'redundancy' around this time, but there was no written evidence of:

- a meaningful discussion about a number of potential risks (financial, legal and reputational risks) involved in not following the MOC procedure to reorganise a third of CQC's workforce
- a clear timeline associated to implementing the proposed reduction at this level of the budgeted establishment being discussed with unions.

There is no documented evidence that provides the reasons for why the MOC procedure, or collectively consulting with unions at this stage, was considered not to be appropriate in the circumstances. This was contrary to the principles of the MOC procedure and CQC's Recognition Agreement, which commits to 'partnership working' and seeking mutual agreement on proposed workforce changes.

Verbal accounts provide 2 reasons for this decision:

1. A belief that to follow the MOC procedure would mean higher staff anxiety, as that procedure could lead to compulsory redundancies. This compares to the preference exercise approach that was designed to ensure all staff were allocated a role, given they were deemed 'significantly similar'.
2. It was believed that the typical 10% annual turnover rate at this grade meant the required workforce reduction was achievable within an acceptable time frame. This would mean there would be no need to dismiss staff for reason of redundancy.

In practice, the MOC Procedure should have been followed. It provides for other options other than dismissing for reasons of redundancy, including 'direct assimilation' or 'ring-fencing' as alternatives, and would have provided a structured approach to consult with unions and individual staff regarding how the proposed changes would be implemented. In fact, the aims of the MOC policy and the stated intent of the organisation to avoid compulsory redundancies are the same.

Additionally, the evidence states the role of 'Assessor' was **not** significantly similar to the original 'Inspector' role. This undermines the position presented in a 'frequently asked questions' document stating, "Our assessment is that the new roles are sufficiently close to the existing Inspector role to not trigger a Management of Change." There was no alternative evidence to suggest the role of Assessor was 'significantly similar'. This means that the role should likely have been deemed a redeployment opportunity. This highlighted a need for CQC's Senior Leadership Team (SLT) and Executive Team (ET) to read the policies and understand why they exist. They aim to maintain strong relationships, they enshrine CQC's values, they build trust and better communication with the workforce and by using them they address legal requirements, thereby safeguarding CQC.

**Recommendation:** Apply the MOC process in full in all circumstances where organisational change "might potentially involve redundancies and/or have a significant impact on employees". This is in line with the current wording of the procedure and ensures there is meaningful consultation. If there is a desire or need to deviate, this should be mutually agreed with trade unions (and staff forum if appropriate – see below section on governance).

**Recommendation:** Offer formal 'trial periods' to staff who are taking up the newly created role of Assessor, and engage in co-design arrangements to be put in place for those who do not believe this is a suitable alternative employment.

## Likely cause

In Grade A the TU and individual consultation was commenced. However, this was impacted by the actions at Grade B which led to the TU dispute and this brought the discussions to a halt. The Grade B was not viewed as MOC and this impacted the relationship with the TU. There is evidence that there were positive intentions, however the decisions made at ETDA and the speed of change did not support best practice and Grade B reorganisations. Although steps were then taken to share information with union colleagues and staff at appropriate times, there appeared to be a lack of technical understanding of collective redundancy requirements, and the speed that CQC was trying to make changes meant choices were made against best practice.

**Recommendation:** Ensure key decision makers such as the Executive Management Team and People Directorate understand collective consultation and redundancy legislation requirements in detail and with proficiency. In particular, the difference between an organisational scenario where there is a risk of redundancy, which is distinct from managing an individual at risk of redundancy.

Was there a clear escalation and governance route understood by all?

### Early warning signs

It was possible for CQC to have quantified the level of upset the reorganisations were causing staff before things got escalated formally by the unions:

- CQC had been having regular 'pulse surveys' (staff surveys) up until November 2021. An 'engagement plan' suggested that these would be a key, quarterly measure of engagement. However, they were not undertaken between November 2021 and September 2022. This reason given for this was due to delays caused by changing contracted providers for the survey.



- The transformation programme governance did not appear to utilise any 'people metrics' to track changes to staff engagement, despite it being a recommendation in the Portfolio Business Case. Other people metrics, such as staff absence and turnover figures within the affected parts of the organisation, were also not considered. These metrics were being presented to the People Committee, however commentary appeared limited and with inconsistent referral to trends. This is despite increasing trends in both areas during 2022 that may have been a crude measure to prompt further examination. It is noted that there is no non-executive director membership at this committee who may have been looking for assurance that changes were not adversely impacting staff.

**Recommendation:** The People Committee should consider including non-executive director representation and should have a focus on strategy and oversight.

## Governance routes

Some of the difficulties mentioned above may have been picked up if there was more integrated governance. It is understood that when the Programme structure was being established, it was agreed that 'People Directorate matters' such as consultation and culture would be run through 'business-as-usual' arrangements. This is despite project investment, such as for a dedicated 'Management of Change' team. There was no evidence that the risks of this approach were appropriately assessed or mitigated, meaning that staff-related matters had limited oversight or constructive challenge in the way they were conducted.

A key example where more scrutiny could have made a difference was the decision to not follow the MOC Procedure. Evidence suggested that some members of the People Directorate questioned the approach being taken to the Grade B reorganisation, but this was not appropriately logged on a risk-register or similar, or otherwise considered in a substantial way which may have prompted further advice to be sought.

The governance framework for managing organisational change is clear within the relevant terms of references for the Staff Forum and the Joint Negotiating and Consultation Committee (JNCC), where it states these groups should be consulted on any proposed changes to the work and structure of the organisation and its staff. However, there were no links between the transformation programme and these groups, so they were effectively by-passed during these management of change activities and were not consulted prior to decisions being made.

The roles and responsibilities of the People Committee includes a need for the committee to "oversee Management of Change proposals to ensure they are affordable and the implications of change for people who work at CQC are properly considered; agree new role types and pay and grading changes". There was no evidence of this being undertaken, though it is accepted that the Executive Team Design Authority may be an appropriate substitute for the People Committee, given that the People Committee is a sub-group of the Executive team. However, given the recommendation for non-executive director oversight of the People Committee, this should be incorporated in future.

**Recommendation:** Updates existing and future transformation programme governance, management and delivery plans so that:

- people-related issues have clear oversight and are included in programme management
- there is consultation with Staff Forum and the Joint Negotiating and Consultation Committee in line with their terms of reference
- there are clear flows of information between the programme and the People Committee.

## Escalation routes

The Trade Union Facilities and Recognition Agreement has a clear escalation route if there is a dispute. Union representatives made a reasonable attempt to resolve matters informally during May and June 2022. On 29 June 2022 full-time union officers sent CQC notification that they deemed themselves in formal dispute. However, the escalation route was not followed fully as follows:

- The Chair (or Vice Chair) of the JNCC should have nominated a person (who must be acceptable to both sides linked to the dispute) to act as "conciliator/mediator" before referring the matter to ACAS. Instead, because the dispute already involved members of the Executive Team, union officers asked for the dispute to be referred directly to ACAS.
- When full-time union officers notified CQC management they were in formal dispute, they required the "status quo" to be maintained in line with the Facilities and Recognition Agreement. This meant that any change processes should have been paused while the dispute was being resolved. This was not enacted by CQC leadership.
- Union officers wrote a letter to the Secretary of State for Health and Social Care, and the Chair of the Health and Social Care Committee on 12 September 2022. This was to raise their concern about the management of organisational change at CQC and a lack of resolution to their formal dispute they had raised in June. The following reasons are understood to have played a significant factor in them taking this action:
  - when they attempted to arrange a meeting with a non-executive director to share concerns, this was declined as the dispute was deemed a matter for the executive
  - a lack of perceived progress in the first ACAS meeting held in August
  - the status quo not being applied, which meant union members were having to make decisions about their jobs.

There was a change in CQC Executive representation at the second ACAS meeting held on 12 October 2022. In this meeting significant progress was deemed to be made by both parties and the dispute was lifted as a result. Although the preference / selection phases of Grade A and B reorganisations had been concluded, actions were agreed that satisfied the unions that some critical matters would be reviewed.

**Recommendation:** Update the MOC procedure to consider pausing future significant organisational change activity where there is a significant impact on employees and when unions raise a formal dispute and request that the 'status quo' be applied; this should only continue once the dispute is resolved. CQC should consider engaging a senior legal officer to provide guidance to Senior leaders in the case of significant reorganisations.

**Recommendation:** Update the MOC Procedure so there is a named Executive owner to receive a 'formal dispute', such as the Chief People Officer. However, if one or more Executive Directors have already been significantly involved, the dispute should be referred to a named non-executive director, such as the 'Senior Independent Director'.

### **A consequence of unclear escalation: individual grievances**

The unions raised a collective grievance under the Conflict Resolution Policy that was rejected. Following this, union representatives encouraged individuals to consider submitting an individual grievance related to their own personal circumstances. Approximately 90 of these were received by the People Directorate in September 2022. These were also initially rejected; the rationale was given that they did not meet "the threshold for the conflict resolution policy".

The policy does not allow for a 'threshold' or triaging of grievances; the policy states if an employee believes that informal attempts at resolution of their issue has not resolved matters, they have the right to raise a formal grievance. This evidence suggests that individual level escalation processes were not enacted appropriately originally.

It is noted however that following the second ACAS meeting in October 2022 these grievances have been re-acknowledged and an approach is being agreed for these to be appropriately heard.

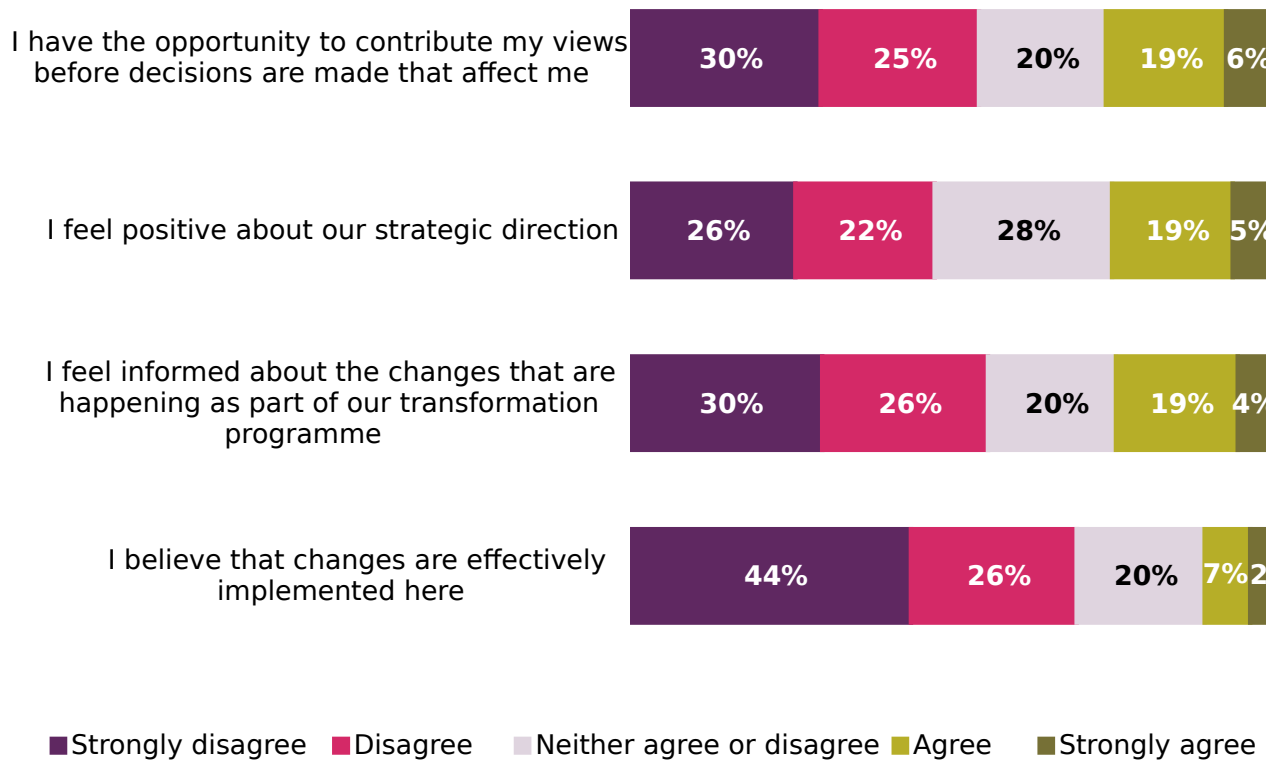
**Recommendation:** Improves the grievance resolution timeline and resolve any outstanding and future grievances in a timely manner in line with [ACAS guidance on grievance procedures](#). This states that if there are 2 or more related grievances there is some flexibility in how to run the grievance procedure; however, in all cases CQC should:

- follow a formal procedure, for all grievances
- keep information confidential
- consider what each employee wants
- explain to the employees how it is dealing with the grievances.

Do we have effective procedures to learn from and respond to colleague feedback (both informal and formal) during change?

CQC recommenced its Pulse Survey in September 2022. Results suggest that procedures to learn from and respond to feedback were not effective; only 25% felt they had the opportunity to contribute views before decisions are made generally, and 23% agreed they felt informed about changes specifically from the transformation programme.

**Figure 5: CQC Pulse Survey results, October 2022**



There was evidence of a busy 'transformation engagement' team, established separately from the normal engagement team, consisting of 11 members of staff. Evidence shows a significant engagement plan that included weekly bulletins, all-staff calls, Senior Leadership Team 30 group sessions / weekly calls, 'team task' groups, and directorate meetings/calls. Throughout virtual meetings, the engagement team collated and analysed comments and questions to give CQC management 'key themes' arising, that then periodically informed 'frequently asked questions' documents.

However, the evidence suggested that this team were positioned so they were receivers and conveyors of information, rather than a strategically aligned resource that shaped the approach to engagement.

**Recommendation:** Ensure the lead for transformation engagement is a full member of relevant programme groups where proposals and decisions are being made. This is to ensure there is an opportunity to influence approaches to be taken, and to enable best use of transformation engagement team members.

## Approach to learning and responding

The Portfolio Programme Business Case had the involvement of "stakeholders who are impacted by the operating model change" as a critical success factor during design. There was evidence of this in some of the original strategic design principles in 2021 (such as through 'Connect and Explore' sessions), but little evidence when it came to how work would be done in practice and activities undertaken during 2022. The evidence that did exist during 2022 was predominantly related to technical system testing and the 'super-user' group.

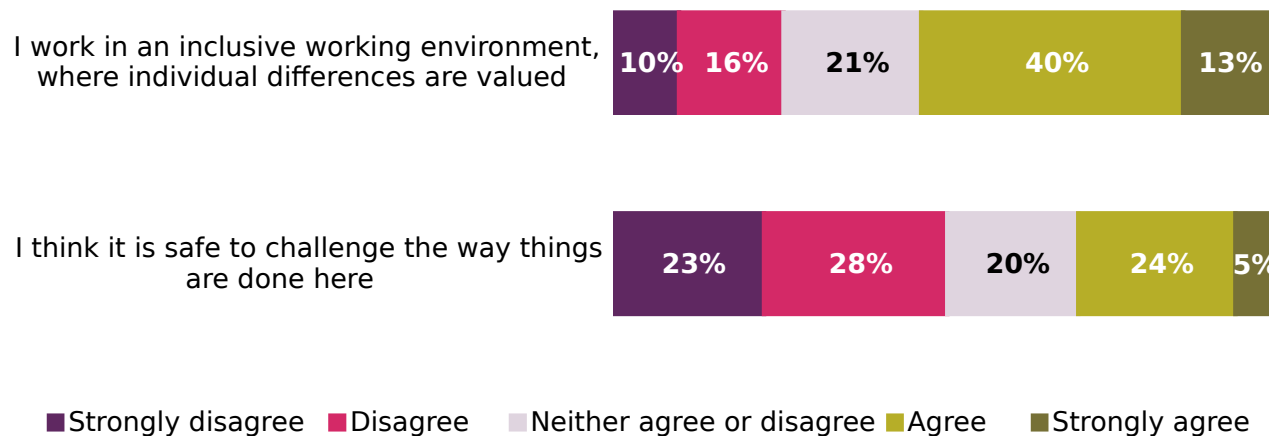
Staff focus groups as part of this review frequently said they felt being talked at, rather than involved during change. In total, 98 out of 118 (83%) staff referred to this, which was also a theme referred to frequently in the Trade Unions Survey results. When talking about this, numerous issues were raised.

- Staff spoke of communications being broadcast and lacking detail of what things meant in practice.
- When staff asked questions, often there was not an answer because details were still being 'worked through'.
- When staff attempted to give feedback, the responses they received typically felt like justifications, rather than management considering what could be done differently to help improve things.
- When staff began to express frustrations because of the above, some reported feeling reprimanded for sharing their thoughts. This led to staff feeling like it was not safe to speak.

- Senior management representatives believed some communication channels were facilitating poor behaviours from staff in some instances. This led to communications becoming more broadcast and one-directional; in virtual meetings, comment functionality became moderated. This left staff feeling 'censored'.

The likely impact of this was on staff not feeling it was safe to challenge the way things are done (only 29% of staff surveyed) in the September 2022 Pulse Survey. Only 53% of staff felt they were working in an inclusive working environment, where individual differences were valued.

**Figure 6: CQC Pulse Survey results, October 2022**



There was a mutual understanding that by the nature of their job roles, Inspectors and Inspection Managers were likely to be forensic in their search for understanding. However, the approach to change was not adjusted to take this into account, either in the means of involving them or the level of detail being provided to them. Information continued to be periodically shared to 'socialise' concepts with a good intent to inform, but as key details were unavailable and there was no means to involve staff to work those details through, this led to staff feeling disengaged as their knowledge, skills and experience were not being utilised.



**Recommendation:** When managing organisational change, ensure change management best practice is followed and embedded. This must include:

- involving staff in designing how new ways of working will work in practice
- providing safe spaces for staff to ask questions, so they can understand the impact on them and process their emotions (recognising some may need to 'grieve' for the organisation they are leaving behind).

CQC makes a commitment across its [equality objectives](#) and its Diversity and inclusion strategy (Our Inclusive Future 2020-2023) to ensure "our 5 staff equality networks are built into engagement processes about strategy and decision making." However, there was no evidence of the transformation programme engaging with the equality networks.

**Recommendation:** Ensure that equality networks are involved as a key stakeholder in co-creation of engagement strategies.

## Enabling learning and responding

When considering the extent of the challenge in delivering a portfolio transformation programme at this scale (organisation-wide delivery, with costs estimated around £34 million during 2021/22) evidence suggested a lack of investment in specialist organisational development and change management resource. A limited case for investment was sent to People Committee in July 2021, but the requested £145,000 was more focused on backfilling 2 roles to enable advancements to CQC's Diversity and inclusion strategy than to enable dedicated support to the transformation programme. The only dedicated resource was 20% of backfill to the Chief People Officer to oversee as a Senior Responsible Officer, and to provide 1 dedicated Learning Consultant to develop learning and development programmes.

One 'cultural workstream' highlight report in July 2022 raised a red/amber risk about "the cultural interventions which underpin the new ways of working will not be embedded". This led to the appointment of 1 dedicated, interim Change Consultant, who created a more detailed 'culture plan', including some structured interventions to influence culture change.

Unfortunately, this individual left within 2 months, and it was left to existing members of the People Directorate to implement as best as they could alongside their normal duties.

There was limited evidence seen that the nature of this risk, the extent to which mitigating actions were challenged and ultimately the potential impact was appropriately assessed, escalated and managed. The evidence suggests that the cultural workstream was not meaningfully embedded within the core delivery of the programme and was inadequately resourced. Had there been an increased level of resource in OD capacity and capability, it is likely that there would have been stronger attempts at getting staff involved in design.

**Recommendation:** Staff should feel that 'change is effectively implemented at CQC'. There should be evidence-based measures in place that assess the impact the transformation programme is having on staff, both as part of this transformation and any future management of change.

More than half of staff involved in focus groups highlighted concern that what was being designed was not ready to put into practice (66/118 staff, 56%).

In January 2023, resources from the Operations directorate budget were redirected to create 4 temporary 'Deputy Directors of Transition' to help with this problem. These roles are intended to work with the programme design team and staff within the Operations directorate to work through the details of 'operationalising' the proposed programme design; ensuring what is designed is able to be put into place. It is noted that this was not part of the programme design and appears to follow several months of senior management colleagues echoing concerns about the extent of change required within limited timescales, and insufficient focus on 'operationalising' the model.

This evidence supports other evidence that when a problem materialises CQC has a tendency to create and deploy a new group of individuals to tackle the issue, rather than evaluate existing opportunities. Other examples included establishing a change network, culture influencers and pulse survey feedback group; these groups all appeared to support the need for more cultural interventions. However, they did not appear aligned or working collaboratively.

**Recommendation:** To contribute to staff feeling that 'change is effectively implemented at CQC', when managing organisational change, CQC ensures:

- organisational development, change management and culture change expertise is secured to support the delivery of programme aims
- operational resources are allocated so that designs are tested, and staff feel that 'change is effectively implemented at CQC'
- available groups and resources are reviewed to support cultural transformation and involvement work to ensure effective use of these staff.

## Learning and responding in line with CQC values

The third strongest theme from focus groups was a sense that the current approach to learning and responding to feedback did not reflect CQC values (53/118, 45% of participants; this also correlated with feedback from the Trade Unions Survey) particularly not demonstrating 'teamwork', then 'caring' and 'integrity'. Of those 53, more than half perceived this showing a disconnect between CQC Executives and the rest of the staff body (31/118, 28%). The evidence suggests this was not intentional, given a key commitment early on to "enabling empowerment, accountability and trust".

Staff gave the following advice to improve feedback so it was in line with CQC values:

**Recommendation:** For CQC to enable better feedback from staff by ensuring staff are:

- listened to with empathy
- involved meaningfully
- informed of what feedback has been acted upon and how; for example, 'you said, we did' was mentioned frequently.

To what extent did the changes account for the diverse needs of different staff?

### Grade A reorganisation

An equality impact assessment was undertaken at the beginning of the Grade A MOC process. This is in line with normal practice when formally implementing CQC's 'Management of Change' procedure. When a voluntary redundancy process was later created, an additional equality impact assessment was undertaken. This is good, initial evidence of CQC proactively considering the diverse needs of different staff.

However, there was limited evidence that equality impact assessments were regularly reviewed or meaningfully informed decision making throughout the change process. This is the requirement for [meaningful and robust equality impact assessments](#).

**Recommendation:** Ensure equality impact assessments are conducted in a timely manner, include all protected characteristics and actively inform planning and decision-making during the change process, as well as after the changes have been implemented.

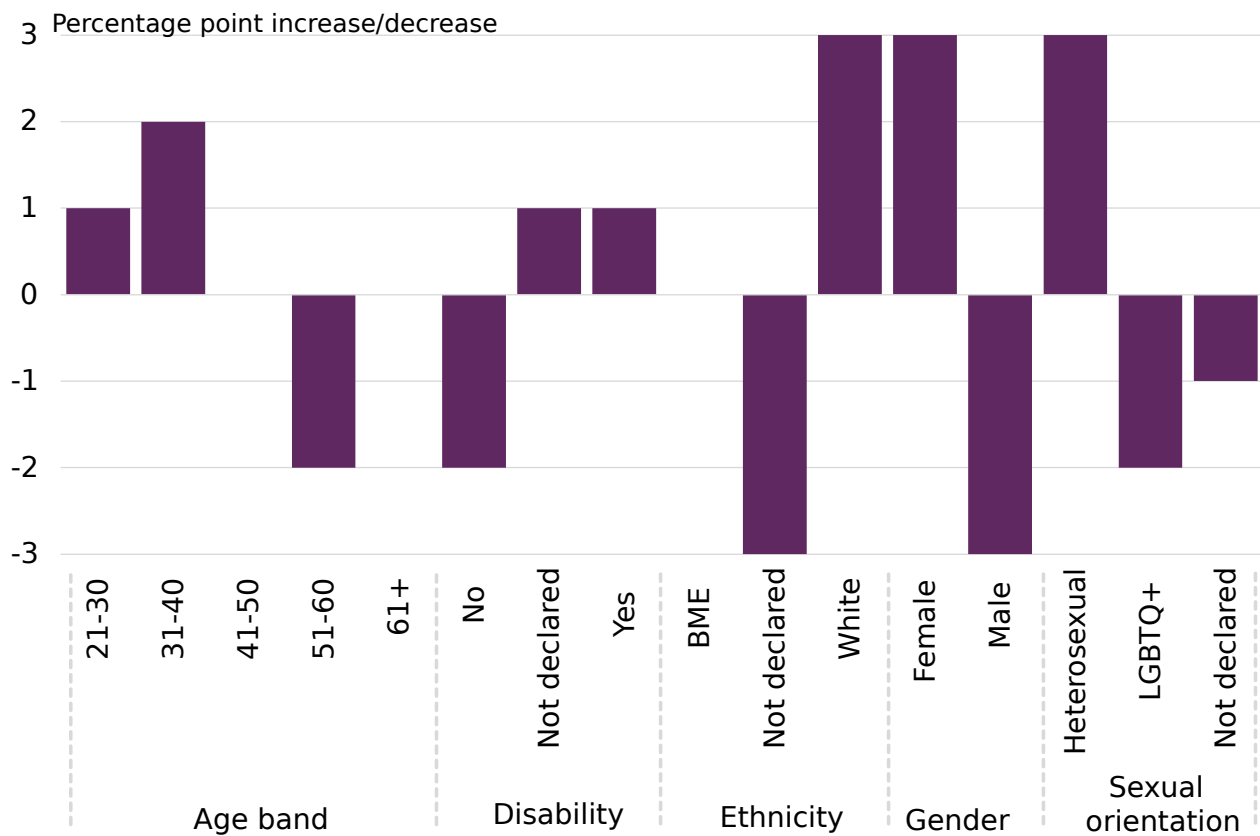
For instance, the voluntary redundancy assessment noted that "10% of colleagues have disclosed a disability" and stated that CQC would "monitor carefully the numbers who apply, are successful and who are unsuccessful for voluntary exit at the end of each MoC to ensure there is no impact". This had not been undertaken at the time of this report, by which time some redundancy decisions had already been sent for approval to the Department of Health and Social Care.

**Recommendation:** Undertakes EIAs for outstanding areas specifically in relation to all the Grade A changes including voluntary and compulsory redundancy.

As no assessment was conducted to inform decision making or had yet been completed as part of the 'closedown assessment', data was requested to compare a snapshot of those Grade A Inspector Managers remaining in employment at 31 December 2022 to those employed at 31 December 2021. It was hoped that this may give an early indication of any areas of potential concern in advance of the workforce system being updated to reflect the new changes.

Data requested showed the total number of staff employed between December 2021 and December 2022 reduced by 19. When considering the change in the percentage of the workforce they accounted for, the profile of this workforce changed so the following characteristics reduced compared to others: males, those declaring as lesbian, gay, and bisexual.

**Figure 7: Percentage point increase/decrease in Grade A staff between December 2021 and December 2022**



From the limited data available it is not possible to determine the significance of these differences at this stage, but attention should be given to these factors in later equality impact assessments to understand if there is a wider pattern emerging. However, it is positive to see the 'Not Declared' rate for ethnicity reducing.

**Recommendation:** Further investigate Grade A reorganisation workforce equalities data to understand potential disparities on the protected characteristics of age, Lesbian/Gay/Bisexual status and of gender.

## Grade B reorganisation

Evidence shows that an equality impact assessment was not undertaken in the initial planning stages of this reorganisation. The reason given was that the reorganisation was not occurring under CQC's formal management of change procedure (see [section on CQC procedure](#)). However, after feedback from staff, equality networks and unions raising concerns on the impact of the proposed changes, one was drafted in July 2022. This was shared with equality networks for further input. It is noted from discussion with members of the Disability Equality Network (DEN) that they believed they had limited opportunity to discuss and feedback because of requested timescales.

**Recommendation:** Ensure equality impact assessments involve the equality networks with sufficient time before a policy or process is enacted so they meaningfully inform the assessment.

The equality impact assessment created in July 2022 noted concerns about lack of available information to inform Grade B staff deciding which of the Assessor or Inspector roles they should choose. As mitigation, it was stated that "Inspectors will not need to be out every day, but will still have significant elements of home-based work... The role is still intended to allow colleagues to have the flexibility to balance their on-site activity with work at home, or in an office and with their responsibilities outside work, such as caring for others. The mitigation is (1) to be clearer, as this is a concern that is founded in a misunderstanding of the role; (2) to share data that enables colleagues to see the reality."

When this review asked how (1) was enacted to make things clear, "clearer communications", nothing could be evidenced that suggested a quantifiable measure was communicated that might enable individuals to make more of an informed decision. In terms of (2), 'data that enables colleagues to see the reality', the following was stated: "the creation of the model team was supposed to test roles however due to lack of data this was not possible".

This equality impact assessment confirmed there would be "a review of who gets their first preferences, disaggregated by equality characteristics before final decisions are made". Evidence suggested this was planned for October 2022. Disability, ethnicity, sexual orientation and gender characteristic data was emailed to an Executive Director on 5 December 2022. This email contained no narrative or interpretation. An analysis now shows that:

- 1,030 of 1,087 individuals received their first preference (57 did not)
- of the 101 out of 1,087 having declared a disability (9.29%), only 3 of 57 did not get their first preference (5.26%), a positive finding
- proportions of staff were comparable based on ethnicity
- the low numbers (n = 6) of those declaring they were Lesbian, Gay or Bisexual means there is no significant finding
- although male staff were less likely to obtain their first preference, given the low number involved (n = 17) again it is difficult to determine any statistical significance.

When this email was forwarded to be part of this review, it was stated that there were several iterations of this data during the time staff were expressing preferences and being allocated to teams. However, this was not evidenced.

A more up to date run of the data was shared to highlight what had changed since this time. This highlighted some minor changes in these groups, including that there was now only 1 disabled staff member not being assigned their preference. The continued reduction in the proportion of disabled staff not getting their first preference is indicative of positive action.

**Recommendation:** Considers positive action regarding the needs of the 1 disabled worker who was not given their first preference in the Grade B reorganisation.



It is noted that the original data shared in December 2022 did not consider age as another protected characteristic. The newer version of the data shared in January 2023 highlighted that, although those under the age of 46 made up 45% of this workforce (n = 489), they made up 62.7% of those who did not get their first preference. This compares to those aged 46 or over who made up 55% of the workforce (n = 598) where only 37.3% did not get their first preference.

When a question was asked on this, CQC's response was that its focus was on "under-represented groups", of which those under the age of 46 were not deemed one. However, the purpose of the [Equality Act 2010](#) is to ensure appropriate consideration of the needs of all groups, and not just those that may be deemed 'under-represented'.

Although there is only a small sample size (51) of staff not receiving their preference, each individual accounts for ~2% change.

**Recommendation:** Investigate Grade B reorganisation workforce equalities data to understand potential disparity upon the protected characteristics of age.

There was no evidence of an equality impact assessment examining the total numbers choosing the role of Assessor compared to the role of Inspector. Some staff within focus groups expressed their preference for the role of Assessor was predominantly due to a lack of supporting information on how the future role of Inspector could be undertaken given their personal circumstances. That includes staff with disabilities and caring responsibilities (16/118, 14%). This was foreseen in the July 2022 equality impact assessment, but the mitigating actions were not implemented in a way that gave staff the level of information they requested. Therefore, this warrants further investigation. It will be important for CQC to demonstrate staff had the right level of detail to make informed choices.

**Recommendation:** Indicate the amount of time that Grade B Inspector and Assessor roles will work at and away from their contractual base and share this with staff. CQC should then enable staff to subsequently change their preference if they decide.

## Reasonable adjustments

This area of the review sought to answer:

- To what extent is the current approach to making reasonable adjustments for applicants and CQC workers at recruitment and employment stages:
  - applied fairly and consistently in line with the Equality Act?
  - considered during management of change?
  - implemented so no discrimination takes place?

## Context

There was evidence of a strategic commitment and framework underpinning equality in the workplace at CQC. It was aware of its responsibilities under the Equality Act 2010 as well as those under the Public Sector Equality Duty as an organisation funded by public monies. On its website, CQC shares its equality objectives (2021 – 2025) and cites its ambition to achieve an inclusive CQC over 3 years as part of 'Our Diversity and Inclusion Strategy' (2020). Within this are 4 overarching priorities:

- Inclusive leadership and accountability
- Inclusive culture
- Inclusive engagement
- Inclusive policies and practices.

CQC [notes](#) that, although it is not "an NHS organisation, we report on WDES (Workforce Disability Equality Standard) and WRES (Workforce Race Equality Standard) and publish action plans to show our commitment to providing a fair and inclusive environment for our colleagues". [WDES standards](#) consist of a set of 10 metrics that enable NHS organisations to compare the workplace and career experiences of disabled and non-disabled staff. Organisations use the metrics to develop and publish an action plan.

Part of CQC's duty is to make 'reasonable adjustments'; to remove or reduce a disadvantage that disabled workers and job applicants may face related to their disability. In line with [ACAS guidance](#), what is reasonable "depends on each situation. The employer must consider carefully if the adjustment:

- will remove or reduce the disadvantage – the employer should talk with the person and not make assumptions
- is practical to make
- is affordable
- could harm the health and safety of others."

The duty to make reasonable adjustments includes an '[anticipatory duty](#)'. This means CQC cannot wait until a disabled person makes a request; it must think in advance (and on an ongoing basis) about what disabled "people with a range of impairments might reasonably need, such as people who have a visual impairment, a hearing impairment, a mobility impairment or a learning disability".

Workforce equalities data from the Electronic Staff Record system as of 31 December 2022 highlighted that approximately 9% of CQC's workforce had declared a disability. Therefore, there are at least 283 staff who may be eligible to request and receive reasonable adjustments in the workplace. This figure may be higher due to the 'Not Declared' rates, but this could not be considered further due to time limitations within this review.

## To what extent are reasonable adjustments applied fairly and consistently in line with the equality act?

Overall, there was evidence of some good practice and policies being in place. However, the experience of some staff highlighted these were not being implemented consistently. Around the time of the Grade A and Grade B reorganisation of staff, there were issues within the Operational Directorate on how reasonable adjustments should be applied.

### **Policies**

A standalone policy regarding 'Reasonable Adjustments in the Workplace' had been in place since 2017. This encompassed legal requirements, the relevance of CQC values on making adjustments, as well as practical guidance on things such as roles and responsibilities. It also included a CQC specific approach to workers having a 'tailored adjustment agreement' to best support disabled staff in the workplace.

Other CQC policies and procedures included references to Reasonable Adjustments, though there is scope to expand on these so that they are more fully inclusive. Longer term, this may remove the need to have a separate Policy. The following are important points of principle found within other policies:

- Recruitment and Selection Policy provided a guaranteed interview scheme and expectation for candidates to contact the recruitment team to request any adjustments.
- Sickness Policy and Procedure potentially provided for a higher trigger point before formal absence management.
- Critical Illness Policy and Procedure referred to support for those with long term conditions.
- Flexible Working Policy referred to 'reserving of a right' for disabled staff to make a flexible working request from their first day service.
- Probation procedure referred to the extension of a probation period to allow for a period where reasonable adjustments have been requested but not yet provided.

- Special Leave Policy referred to a right to 'disability leave'.

Newer policies such as the Special Leave Policy (2021), were found to be written in a more supportive, people-centred tone compared to older policies that appeared more compliance and process focused (eg, Flexible Working Policy [2015]).

**Recommendation:** Regarding workforce policies:

- Update the Reasonable Adjustments Policy to incorporate comments from the Disability Equality Network group.
- Modernise the Flexible Working, and Critical Illness Policy and Procedures to recognise reasonable adjustments and make the tone more supportive. Approve them through groups, including staff networks.

### **WDES action plan 2022/23: reasonable adjustments**

The WDES Action Plan for 2022/23 appeared comprehensive and stretching, with associated timescales for delivery. This included a particular workstream dedicated to improving "colleagues' experience with obtaining Reasonable Adjustments". However, there seemed an over-reliance on multiple 'leads', which can mean a lack of clarity on a single owner responsible for overseeing improvements. Additionally, timescales and outcome measures were also not always clear, and there was limited evidence that progress was being tracked and reported along appropriate governance channels. Specifically, this includes the following 2 actions pertinent at the time of this review in quarter 4 2023:

- There is an action for HR and the WDES Project Group to "investigate ways to track reasonable adjustments across the CQC in order to make sure people's reasonable adjustments are kept up to date"; this agreed action has no clear outcome measure, timescale or owner, and evidence suggested that no progress had been made.

- The Reasonable Adjustment Policy was due for review by March 2019; in the plan it is indicated that this would be finalised and published by quarter 1 2022; however, it had not been completed.

**Recommendation:** Revise the Workforce Disability Equality Standard 2022/23 action plan, relating to 'reasonable adjustments' so that:

- a single responsible person / job role is named to improve accountability
- wherever possible they have clear measurable outcomes and timescales
- it is clear what group within CQC's governance structure is responsible for monitoring progress. A non-executive director representative should be considered to ensure executive directors are held to account for progress being made toward equality objectives.

## Staff experience during recruitment

The Resourcing team shared that they had been supporting arrangements during recruitment and selection process for years, such as providing extra time during assessments, sourcing special equipment and so on. Work stemming from the WDES action plan during 2022/23 (see above section) prompted a strong focus on increasing applicant awareness that they could request adjustments during the recruitment and selection process.

The staff spoken to all believed they could talk constructively with colleagues within the People Directorate about their reasonable adjustments. The evidence suggested that historically it was harder to obtain adjustments, and the responsibility for organising some requests (such as for an interpreter) had been unclear. However, since October 2022 it was felt there had been an increasing proactivity in enabling reasonable adjustments, with examples given that showed senior members of the People Directorate were taking personal responsibility for 'unblocking' any areas where staff believed limited progress had previously been made.

In an audit, the Resourcing Team could evidence a high demand, with 58 requests being made between August – December 2022. 53 were fully met (91%), with the remaining 5 partially met (9%). However, staff shared that what was agreed with the Resourcing team were not always put into practice by the recruiting managers. The handling of the 5 'partially met' adjustments by the Resourcing team was also a cause of significant distress for these candidates, which is the focus of the following case study on 'interview questions'.

### **Case study: interview questions being provided in advance**

Five staff requested interview questions being sent to them in advance of interviews during August – December 2022. The timeframe for 'in advance' varied from 1 to 7 days before their interview. This type of request was said to be new to the Resourcing team, so further advice was sought about what would be a 'reasonable' timeframe. Legal advice was given that suggested 1-hour in advance might be sufficient. This then became a consistent standard that was then applied to multiple cases in an attempt at fairness.

In at least 2 instances it was suggested that this triggered significant anxiety symptoms affecting candidates' mental health (the reason for the initial request). This prompted some candidates to complain. The period was extended slightly for these candidates, but still less than the timeframe they had requested. Afterward, the Resourcing team did an internal review, seeking involvement from a member of the DEN neurodiversity sub-group. This has led to a change in practice at CQC and it will typically now send a minimum 48-hours in advance.

It is positive that CQC took this opportunity to review and learn from complaints. However, a similar, previous formal complaint was lodged with CQC at the end of 2021, so it appears there was a missed opportunity at reviewing this earlier.

It is understood that the Resourcing team are also keen to embark on a full review of selection processes to consider other appropriate means of selection other than a traditional competency-based interview, which may prompt further inclusivity.

It is noted that this initial review only received contributions from a neurodiversity perspective, so there is an opportunity to ensure agreed actions are also the right interventions to support those with other disabilities.

Some newer starters highlighted that information on their disabilities was not passed from recruitment stages to their new line manager. There was however an assumption that this would be done.

**Recommendation:** As part of the onboarding and welcome process before all new staff start, including those on flexible contracts, any specific reasonable adjustments should be discussed and agreed to be shared with the line manager. However, CQC should also allow any disability to be kept confidential. All new staff should be referred to the Reasonable Adjustments policy and tailored adjustment agreement approach during induction – both new starters and new managers, so they understand what is available to them, and what they are required to do if relevant.

## Staff experience during employment

Evidence was mixed about the extent to which line managers were fairly and consistently making reasonable adjustments. This review took into account the lived experience of 43 CQC workers, which included cases where some reported a responsive process while with others there was considerable, emotional upset relating to their challenge in accessing their adjustments.



Not all staff, particularly those newer in role, were aware of the Reasonable Adjustments Policy and the embedded 'Tailored Adjustment Agreement' process.

A high usage of fixed term contracts (linked to the extended period of organisational change) meant that there were groups of employees who have had a significant number of managers over a relatively short period (e.g. several had more than 10 managers over a 3 year period). The existence of adjustment agreements for staff was not typically included in any handover, meaning the onus was on the staff-member to raise attention to their particular needs. Staff understood they had responsibility to advocate for themselves to an extent; however, in some instances the nature of their condition(s) meant every time they had to raise matters it triggered undesirable symptoms, and for some, to relive a trauma.

**Recommendation:** CQC should ensure that the proposed means for tracking reasonable adjustments across CQC (as per the WDES Action Plan) is accessible to managers, who are enabled to access and review the adjustments for any new team members they are responsible for; the Disability Equality Network should support and inform what 'good' looks like from their perspective.

Some staff perceived too much focus on complying with a process. In some cases, discussions took place over several months without being concluded, which to the staff did not feel like their needs were being put first.

**Recommendation:** Review and reduce the timeframe agreed, in partnership with the Disability Equality staff network, from when reasonable adjustments are requested to the supportive involvement of occupational health and the adjustments being delivered. There should be a centrally held record of all reasonable adjustments and requests to enable monitoring and tracking to deliver more rapidly, and to ensure, in organisational change, adjustments can be anticipated.

Some staff perceived their simple requests were being overly formalised, that there was a reliance on outsourced occupational health services, and during the months of discussions there were a lack of 'interim' adjustments to support them.

**Recommendation:** Offer support and advice from occupational health when it is not known what adjustments may be helpful, or there is a concern on practicality, affordability or if it could harm the health and safety of others. 'Interim adjustments' should be agreed while this advice is being sought on the original request.

There was some evidence to suggest some occupational health information about staff was being shared by the outsourced provider to a representative of the People Directorate, who would then forward on to managers to be acted upon without full awareness and involvement of the staff member.

**Recommendation:** Staff should be the main recipient of any Occupational Health outcome letter / report. They need to provide consent for this to be shared with managers and any other relevant parties (in line with the Access to Medical Reports Act 1988).

Given the potential for more than 283 staff within CQC needing reasonable adjustments, the fact that there were only 2 formal complaints / grievances during 2022 was deemed low. However, there were other examples of emotional upset in how issues had been handled.

**Recommendation:** Ask questions about a need for reasonable adjustments sensitively, understanding that it may have been difficult for the person to broach the subject. Although staff members only need to share information they are comfortable providing, they should understand CQC only needs to make a decision based on the information it is given.

For CQC to truly live its 'caring' value, further intervention is required to support staff requiring reasonable adjustments, particularly around the consistency of experience with different managers and the time taken to implement adjustments. Improved management awareness may be delivered through training and coaching, but in the short term will likely need a representative from People Directorate to proactively support managers in discussions on adjustment.

**Recommendation:** Agree and deliver a minimum standard that ensures reasonable adjustment skills, knowledge and responsibility is delivered to all those with line management responsibility.

To what extent are reasonable adjustments considered during management of change?

The focus of this review is on the Grade A and Grade B levels who were going through management of change during 2022 (see [section on Managing organisational change](#)).

In employment law, there is a requirement to make [reasonable adjustments](#) during reorganisation or redundancy processes to remove or reduce a disadvantage related to someone's disability. Depending on the individual's circumstances, this may include making adjustments to selection criteria, or coming up with alternatives to interviews when selecting staff for job roles. This is illustrated in the case of [London Borough of Southwark v Charles](#).

## Grade A Inspector Managers

For Grade A Inspector Managers, evidence showed that those who were notified of being in a "competitive ring-fence for the role of Operations Manager" were scheduled to have an assessment to judge suitability. The invitation for this included a clear prompt to inform the management of change team at a given email address if they required any reasonable adjustments. This was reiterated in a 'frequently asked questions' document. Evidence showed requests being made in line with this, with no evidence suggesting requests were denied in their entirety. However, in 5 cases interview questions were requested one or more days in advance, but were only provided 1 hour in advance (see case study above). These staff perceived that they were disadvantaged by not receiving questions as far in advance as they requested.

**Recommendation:** Improve the process for agreeing reasonable adjustment requests, looking for alternatives if the request is impractical, unaffordable, or could cause harm.

The evidence suggests that responsibility for reasonable adjustments was delegated to local managers when it came to staff being allocated their new regions, without a structured process to follow. This resulted in staff experiencing a varied approach dependent on their region or directorate. Some individuals shared that they were explicitly asked what location would be best for them to work in, regardless of their disability status. In other areas this was not requested, even if difficulty travelling was listed as part of a tailored adjustment agreement.

## Grade B Inspectors

For those originally employed as Inspectors, they were asked to engage in a 'preference exercise' and complete a form citing a preference between 2 job options. The preference form provided no place for reasonable adjustments information to be shared, and there was no evidence of a structured process to support decision making. Evidence shows that some staff were invited to share information about their adjustments while others were not; for those that were invited to share, the method for this being captured was inconsistent between areas and not done in a way that allowed for transparency.

As with Grade As, it is understood that the responsibility for considering any reasonable adjustments was given to decision makers based on their local knowledge of individuals and their needs. Feedback from focus groups, which included previous managerial 'Heads of' roles, said they were asked to be involved in the decisions, but talked of varying approaches to acquire this information (particularly when local knowledge was limited). Group participants involved in decision making raised concern about missing 'hidden disabilities', and participants who were affected themselves by the changes spoke of not knowing what information was considered when decisions were made.

**Recommendation:** When undertaking a reorganisation affecting staff from more than 1 team, CQC should provide a structured means to capture and fulfil requests for reasonable adjustments at each part of the process.

### To what extent are reasonable adjustments implemented so no discrimination takes place?

The focus of this review was the possibility of direct or indirect discrimination having occurred. There is a relation between a failure to make reasonable adjustments and indirect discrimination, so that is reflected in this section.

#### Direct discrimination

There was evidence of staff experiencing considerable upset at times. However, none of the evidence shared as part of this review, including the lived experiences of 35 staff involved in personal discussions, and a further 8 in group discussions, contained any substantial evidence of direct discrimination.

## **Indirect discrimination**

Indirect discrimination is where a rule or practice is in place that has a disproportionate, negative impact on those with a disability. There is a [legal defence](#) that can be applied in such circumstances, which is if there is a clear objective justification that is 'proportionate, appropriate and necessary'.

### **Risk: requests for interview questions in advance**

There was evidence of reasonable adjustments being requested but not granted in full. The key theme emerging related to interview questions, as outlined in the case study above; this was during the time when there was a rule of providing these 1 hour in advance. If 1 or more of these individuals were able to establish that they had suffered a disadvantage due to a disability that may require more than an hour for adequate processing, it is possible for this to lead to a claim of indirect discrimination.

CQC has since adapted practises to provide interview questions in advance at least 48 hours when requested as part of a reasonable adjustment. This additional time may be helpful, however each request should always be assessed on its own merit. Only requests that are impractical, unaffordable, or could harm the health and safety of others are likely to be easily deemed unreasonable in the eyes of the law. Alternatively, CQC needs to be confident there was a good business reason that was proportionate, appropriate and necessary.

### **Risk: redeployment following reorganisation**

Another possible risk found related to staff being deployed to a different place of work. This is most clear in the example of Grade A and Grade B reorganisations, where there was a potential impact for staff to be redeployed to another contractual base, despite 1 or more individuals having a difficulty in travelling to the new place of work. This is noted within an equality impact assessment, with mitigation cited as "as a default, we will deploy colleagues within their home geography to support the needs of colleagues with a disability or carer responsibilities... We have also built in space for colleagues to express if this is not the best outcome for them."

The implementation of this will be key if there is a staff member who has a tailored adjustment agreement in place that limits the amount of travel needed for work purposes and that is not followed. CQC should assess any such complaint brought to its attention and check whether there's an alternative can be taken that does not place disabled people at a disadvantage.

**Recommendation:** When undertaking a reorganisation affecting staff from more than one team, CQC should provide a structured means to capture and fulfil requests for reasonable adjustments at each part of the process. Decisions should take into account existing tailored adjustment agreements.

### **Other areas examined**

Data regarding overall disabled worker representation, the use of fixed-term contracts and grievances was examined to see whether there were other possible indicators of unfavourable treatment. Overall, it was found that disabled staff were represented equally or more favourably than non-disabled staff in these areas. This supported the findings within the limitations of this review of no evidence of direct discrimination on the basis of disability was uncovered.

## **Contracting advisory and complementary staff**

This area of the review sought to answer:

- To what extent are the appointment, contracting, deployment and disengagement processes relating to advisory and complementary staff (non-substantive):
  - consistent with processes for substantive staff?
  - aligned to CQC values?
  - have appropriate safeguards to ensure decisions are made that do not infringe on employment rights?

## Context

Alongside its more than 3,000 substantive workforce, CQC frequently uses additional skills, knowledge and experience from a range of specialist staff on 'zero-hours' or 'casual worker' contract types. For clinical advisory roles, these workers are required to inform CQC if they cease to work clinically as the arrangement is to be reviewed 2 years from that date to see if it would continue. Available records suggest there are approximately 2,000 of these workers, which for the purposes of this review are referred to as the 'advisory and complementary' staff.

Phase 1 of the Listening, learning, responding to concerns review examines what occurred in the lead up to Mr Shyam Kumar bringing a claim to employment tribunal, the outcome of which was published in September 2022. This section considers what procedures were found to be in place following this date, with a view to understand how this can be improved further.

Following the tribunal it was clear that CQC took some immediate steps to change its approach to 'disengagement'. A thorough assessment had also been undertaken into how some casual and zero-hours worker types were being utilised. This was followed by an agreement from the Executive Team in December 2022 to focus some time and attention on how these workers were to be meaningfully utilised in the future.

To what extent are they consistent with processes for substantive staff?



Up until September 2022, there were no comprehensive policies or processes in place governing the appointment, contracting, deployment and disengagement of this section of the workforce.

## **Disengagement in contentious circumstances**

After September 2022, HR colleagues proactively created draft 'Flexible Workforce Guidance' (awaiting formal sign off, as of 24 January 2023). This guidance is applicable when dealing with "complaints, potential conduct issues or whistleblowing concerns". It outlines an approach to be taken to investigate matters, a formal approach to disengagement where it is required, and provides a right of appeal. This is largely consistent with similar formal processes for substantive staff when issues arise. It includes required steps for a worker to be marked as 'Do Not Deploy' if it is in response to a complaint being received. It also includes the utilisation of a senior independent manager as a decision maker, and the use of human resources advice as may be necessary.

## **Advisory and complementary strategy**

In line with the ongoing transformation work to deliver the Single Assessment Framework (SAF), a scoping exercise had been undertaken by members of the Transformation Programme team in relation to Specialist Professional Advisors (SPAs), National Professional Advisors (NPAs), Bank Inspectors and Experts by Experience. They created a 'Advisory and Complementary Workforce Strategy' from this outlining key drivers for change, strategic outcomes and anticipated benefits. From this information and from talking with existing advisory and complementary staff, it is understood that:

- **Specialist Professional Advisors**

- Previously they could be recruited by referral or submitting a CV with a limited selection process to provide assurance around suitability. More recently, SPA opportunities go through a workforce approval process, are advertised, shortlisted and interviewed in a way that is consistent with substantive staff and managed by the Resourcing team.
- There were no standard procedures governing their deployment. There was no central management of engagements, leading to inconsistent matching of skills to required tasks. Local arrangements were often in place to gain access to SPAs, which may not consider potential conflicts of interest. Although some individuals had been registered as specialist workers for several years, some had never been contacted to make use of their specialist area knowledge (though they had been utilised more generally to support inspections).
- There are other reasons for disengagement other than 'complaints or conduct issues' that are covered in the new 'Flexible Workforce Guidance'. This included an unwritten rule for disengagement to be undertaken when the SPA has not practised clinically for more than 2 years; it was unclear how this was enacted in practice.

- **Experts by Experience**

- This is an outsourced service, with little information known about how to make best use of this resource, or what to do if a complaint was received about one of those workers.

- **Bank Inspectors**

- Recruitment appeared predominantly to be from referral when substantive Inspectors were leaving CQC employment.
- There were no standard procedures around their deployment. There was no central management of engagements, leading to inconsistent matching of skills to required tasks; local arrangements were often in place to gain access to Bank Inspectors.
- In some areas, there was some management oversight provided by an Inspector Manager.

- **National Professional Advisors**

- NPA opportunities go through a workforce approval process, are advertised, shortlisted and interviewed in a way that is consistent with substantive staff and managed by the Resourcing team.
- There was variation in contractual terms offered for these roles.
- There were no standard procedures around their deployment. There was evidence of more central management of engagements, reporting into Directors, though not all were aware of who their Director was.

Discussions with staff highlighted other work was underway to improve various areas, including the following:

- The establishment of a potential programme to improve the consistency and strategic use of these workers. However, the following was unclear:
  - prioritisation of this programme given the substantial other transformation work being undertaken at CQC
  - who was responsible for delivering the strategy and how this would be overseen from a governance perspective
  - the additional resource needed to meaningfully deliver the anticipated benefits put forward in the programme design
  - to what extent the programme was to consider Executive Reviewers, Bank Mental Health Act Reviewers and other Second Opinion Appointed Doctors as examples of other advisory and complementary workers.
  
- After September 2022, the People Directorate commenced an improvement project into some of the issues arising from the case. Disengagements were halted and potential cases managed in line with the draft 'Flexible Workforce Guidance', alongside an Operations lead. Thirty cases had been closed, with a further 43 live cases in progress. However, it was noted that there were over 400 SPAs who had been marked as 'Do Not Deploy' and unable to work, where there was no clear plan to review and progress.

**Recommendation:** Review the list of Specialist Professional Advisors (SPAs) marked as 'Do Not Deploy', ensuring they are appropriate. Where the individual has not instigated this status themselves (through maternity or sickness etc), CQC should agree a plan to address each case within the next 3 months. This should include notifying individuals and giving them a right of response. Frequent equality impact assessments should take place to identify potential bias.

- The People Directorate identified potential gaps in collecting declarations of interest for this part of the workforce and had completed some actions to mitigate that, including updating a policy and improving data capture on the Cygnum system. They were also reinforcing the requirement for all scheduling requests to be managed centrally through the Scheduling Team, escalating any requests that were being made for a named individual.
- There was an agreement to transfer the Scheduling Team from the People Directorate to the Operations Directorate to improve operational ownership and oversight.
- A Director of Operations was leading a 'Flexible Working Office' work-group with representatives from the People Directorate regarding SPAs; target actions included standardised communications, complaint handling and the creation of a 'handbook' to outline expectations and processes that apply to them.

**Recommendation:** Ensure a 'handbook' or similar suite of policies or processes are created to cover all advisory and complementary staff, which should cover:

- how appointments are made and how they are inducted to CQC
- how they can access work opportunities and how decisions around scheduling and deployment are made
- what is required to stay 'active' as a registered worker, including professional registration and ongoing minimum standards of training
- how either side may pause eligibility for work or stop work completely.

## To what extent are they aligned to CQC values?

Due to the lack of written processes (as found in above sections), this section focuses on how the current state reflects CQC values.

Process mapping undertaken by the transformation team project group highlighted that some current (unwritten) processes have multiple examples of 'over-processing', 'waiting' and 'defects' that could be streamlined. This is contrary to the desired value of '**Excellence** – being a high-performing organisation'.

The lack of a structured approach in using this part of the workforce, including how they support the application of the Single Assessment Framework, means there was little evidence of '**Teamwork** – learning from each other to be the best we can'. This section of the workforce were not clearly aligned to CQC's strategic purpose. However, it is noted that a proposal to examine the use of SPA, NPA, Bank Inspector and Experts by Experience roles had been developed and agreed by the Executive Team Design Authority. The proposed programme approach to examine and improve the approach taken to these roles was an example of greater teamwork.

**Recommendation:** Update the advisory and complementary workforce strategy so it:

- is clear whether other casual and zero-hour workers at CQC are in its scope; this includes Executive Reviewers, Bank Mental Health Act Reviewers and Second Opinion Appointed Doctors
- has an implementation plan that has assigned governance and resourcing.

Some steps taken since September 2022 indicated increasing '**Integrity** – doing the right thing', particularly around ensuring workers are afforded the right to respond if a complaint with their work is highlighted, regardless of their contractual position. However, there was evidence of a lack of proactivity in other areas, particularly reviewing the list of those SPAs marked as 'Do Not Deploy' who were unable to access work. As of 30 January 2022 there was no clear plan on who was doing what, and by when to resolve those ongoing restrictions to work.

There was also one example where evidence suggested an active step was being taken to limit a staff contract to 23 months, with the stated purpose of avoiding 'advisor colleagues becoming substantive'. Although it may be appropriate to consider the impact the length of contract time has on employment rights, decisions should be driven by business needs, not the avoidance of workers accumulating additional employment rights (such as the right to redundancy pay or bring an unfair dismissal claim). This example is not one of integrity, but the fact that it was challenged at the time and alternative arrangements made is an example of such. However, it is unclear from this example how widespread this practise was, and within the time limitations of this review this could not be investigated further.

**Recommendation:** CQC should ensure that contracts being offered to staff (including extensions) are in line with each business need. They should not be tailored to avoid milestones that accrue key employment rights.

There was limited evidence of current approaches being '**Caring** – treating everyone with dignity and respect'. There was no evidence of consistent management or support being available to these staff. There was no evidence that any group had access to development, which would be a good opportunity to grow talent and enable these staff to potentially become part of the substantive workforce (where appropriate). There was no clear communication or engagement plan for these staff; although some received bulletins or CQC updates, this was stated as having little bearing on them and not being particularly informative. It was also noted that there had been no survey or similar consideration of their staff experience.

**Recommendation:** Ensure measures are taken to recognise the skills, knowledge and organisational benefit of the advisory and complementary workforce in line with CQC's values, rather than simply a resource. This should include gathering insight into the staff experience of advisory and complementary staff (such as through a survey) to ensure they feel valued or to inform actions.

To what extent have appropriate safeguards ensured decisions are made that do not infringe on employment rights

### Terms of engagement

The contract / terms of engagement documents for these workers were reviewed and appeared in line with legal requirements, with the possible exception related to annual leave arrangements. In all cases annual leave arrangements were linked to an increased fee payment, calculated at a rate of 12.07% of fees received. Given the Supreme Court's decision in [Harpur Trust v Brazel](#) [2022] that challenged the way annual leave is calculated for workers who have an atypical work schedule, this previously common practise should be reviewed.

**Recommendation:** Review and audit all staff members' appropriate entitlements, including leave and contracts, to ensure they are compliant.

### Disengagement processes

The newly created 'Flexible Workforce Guidance' document outlines a structured approach to disengagement in known contentious circumstances. This will provide an appropriate structure for times when difficult decisions need to be made on potential disengagement. This helps to safeguard CQC in making such decisions, and early evidence suggests it is already making a difference, with one worker known to have successfully utilised the right of appeal, and 5 other advanced cases being de-escalated and avoiding litigation.



## Other processes

The involvement of the Resourcing team in the recruitment and selection of some roles helps provide structure and transparency in those instances. However, as they are not consistently used, the safeguards only apply to those times when their expertise is utilised.

The lack of any other written and consistently used appointment, contracting and deployment processes means there was little evidence of appropriate safeguards being in place to ensure decisions are made that do not infringe on employment rights.

## Workforce equalities data

A sample of workforce equalities data was requested for Specialist Professional Advisors and Bank Inspectors to consider whether there may be issues impacting on equalities. These 2 groups were chosen as they are the 2 largest CQC had data for.

In a comparison of data between December 2021 and December 2022, the data revealed a reduction in the number of workers with 'not declared' for disability, ethnicity and sexual orientation characteristics; however, 'not declared' numbers were still high in these categories (ranging between 19.3% to 34.8%), meaning it is not possible to draw significant conclusions from the data. This may hide risk(s) in these areas.

When comparing movement between 2021 to 2022, there was an overall increase in the number of Bank Inspectors and SPAs, driven by an increase in workers under the age of 51 (+113); however, there was a reduction in the number of workers aged 51 and above (-69). This is against the [national trend](#), where there was an increase of workers aged 50-64 (+0.1%) and over the age of 65 (+0.4%).

### **Figure 8: Age data – net change between December 2021 and December 2022**

Age band	21-30	31-40	41-50	51-60	61+	Total change
Bank inspector	1	4	3	5	-12	1
SPA	10	39	56	-7	-55	43
<b>Grand total</b>	<b>11</b>	<b>43</b>	<b>59</b>	<b>-2</b>	<b>-67</b>	<b>44</b>

This is consistent with changes in the age distribution within the substantive Inspector and Inspector Manager workforce numbers over the same period. Equalities data was requested for the cohort of 480 SPAs originally listed as 'Do Not Deploy'. It is understood that this list is continually changing, as it includes those unable to work for any reason, including maternity leave and sickness absence, and not just those prevented from working due to a complaint (or similar) being received. A breakdown of data was received for the 466 workers remaining. This data had high 'Not Declared' rates impacting on the ability to draw significant conclusions.

Despite there being some attention on equality and decisions being made around this cohort of workers after September 2022, there had been no proactive consideration of this information. An action had, however, been agreed to review requests for a SPA to be marked as 'Do Not Deploy' where the reason given is vague before taking any action.

**Recommendation:** Comprehensively review equalities workforce data for this cohort of staff by:

- investigating drivers for high 'Not Declared' statuses and reducing levels of non-disclosure to below 5%
- actively monitoring equalities data to inform planning and decision making to ensure no disadvantage occurs.

## Evaluation

There should be a thorough evaluation of CQC's ability to listen, learn and respond to staff following the implementation of recommendations from this review. This should seek to understand whether CQC has improved its practices against the following aims in this review:

- CQC has a culture, supported by effective policies, processes and practices, to listen to, act on, or respond to concerns raised by colleagues, including advisory and complementary staff, about CQC. This means staff feel safe to speak up and that speaking up is invited, welcomed, celebrated, listened to, and responded to well. [Aim 2]
- CQC's culture, processes including governance, decision-making and outcomes comply with, and look to lead best practice regarding, the Equalities Act 2010, ensuring:
  - there is a clear understanding of best practice, where discrimination is identified, addressed and, wherever possible, prevented using anticipatory measures
  - the handling of concerns about CQC raised by colleagues, including advisory and complementary staff, are free from institutional or interpersonal discrimination
  - CQC makes reasonable adjustments for CQC colleagues and CQC applicants in a timely manner and in line with best practice. [Aim 5]

- Relevant CQC colleagues feel confident, skilled, empowered and supported to respond to concerns raised by other staff, including advisory and complementary staff, about CQC. [Aim 7]
- CQC has a culture, underpinned by best practice policy, processes and practices, where staff, including advisory and complementary staff, feel empowered to make a meaningful and timely contribution during change to support improvement and transformation. This should include ensuring there is learning from, and an adequate response to, feedback from formal consultation and informal engagement. [Aim 8]
- CQC's appointment, contracting, engagement, deployment and disengagement processes relating to advisory and complementary staff (non-substantive) are non-discriminatory, consistent with the values of CQC and ensure employment rights are maintained. [Aim 9]

Six months after this review is published, CQC should look at progress against the implementation of the recommendations. After 12 months there should be an evaluation report on the outcomes of CQC's response and this will mark the formal close of the review. The evaluation should then continue, in order to understand the full impact of the recommendations in achieving the aims set out.

To evaluate how this review has impacted CQC's ability listen, learn and respond to staff, possible methods include:

- recommendation tracking
- a survey of all CQC colleagues including those who have raised a concern
- a survey of job applicants who declare a disability
- a survey for all advisory and complementary staff exiting CQC
- focus groups with CQC colleagues to understand whether they feel safe to raise their concerns

- focus groups with CQC colleagues who have requested reasonable adjustments to understand their experiences
- focus groups with those responsible for handling whistleblowing and information of concern about care
- focus groups with those responsible for responding to concerns about CQC raised by CQC colleagues. The groups will include advisory and complementary staff, People Directorate colleagues, Complaints Team and the guardian(s).
- focus groups with advisory and complementary staff about their appointment, contracting and deployment
- analysis of whether CQC has responded to or acted information of concern about CQC, and how this varies by protected characteristics
- analysis of proportion of reasonable adjustment requests met and the length of time to implement them.