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Health Committee

Appointment of the Chair of the Care Quality Commission

Fourth Report of Session 2007–08

Volume II

Oral and written evidence

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The Health Committee

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Witness

Thursday 8 May 2008

Page

Baroness Young of Old Scone, nominee as Chair of the Care Quality Commission

Ev 1

Written evidence

1 Memorandum by the Department of Health

Ev 16

Oral evidence

Taken before the Health Committee

on Thursday 8 May 2008

Members present

Kevin Barron, in the Chair

Jim Dowd
Sandra Gidley
Dr Doug Naysmith

Dr Howard Stoate
Dr Richard Taylor

Witness: **Baroness Young of Old Scone**, a Member of the House of Lords, gave evidence.

Q1 Chairman: Good morning, Baroness Young. I will not ask you to introduce yourself and the position that you hold because, as far as we are concerned, you do not hold it quite yet. Welcome to this first pre-appointment hearing of the Health Committee. I understand that we are the second select committee that is going the process that was introduced last year. I would like to start this morning's proceedings by asking a general question about why you applied for the job.

Baroness Young of Old Scone: Strangely enough, I did not apply. The head-hunters phoned me up. I had looked at it in the passing when it was advertised and thought, "I quite fancy that", but we are, as you may have gathered, in the middle of some fairly interesting and strenuous stuff at the Environment Agency at the moment. I was quite enjoying that because we have some very good opportunities in front of us, and so I did not really get myself together and apply for it. When the head-hunters phoned up I thought I must be fate because it does really play to my strengths. It plays to my commitment to health and social care from the past; it plays to my regulatory experience over a long number of years; it plays to the fact that I was committed to moving in my eighth year at the Environment Agency anyway. I told them when I started that I was going to leave in year eight, and this is year eight. It just seemed that it was something that was a very worthwhile job at a crucial point in health and social care and that I had some of the skills that were going to be needed, and so that is what happened.

Q2 Chairman: I was intrigued because I have in my constituency Catcliffe and the only reservoir that last June was in the national highlights for quite a while. I wondered if you wanted to get out of the water, as it were.

Baroness Young of Old Scone: No. There has been a bit of press speculation about whether I am jumping before the Pitt report says something rotten about the Environment Agency, but in fact we know pretty well what the Pitt report is going to say, and indeed the Pitt report interim conclusions were very supportive of some of the ideas that the Environment Agency wanted to push forward. The Government has undertaken to give us additional

roles and additional funding and so that does not feel like an organisation that has been regarded as a failure.

Q3 Chairman: Could you outline briefly what the selection process up to now has involved as far as you are concerned?

Baroness Young of Old Scone: After the head-hunters phoned me, I did not even think for more than 30 seconds; I just knew that I had to go for it. I filled in the normal application forms. I think I spoke at that stage to a number of people in the health and social care field, particularly either the chairmen or the chief executives of the existing organisations, just to find out what their perspective on the whole issues was, because I knew it was quite a controversial creation of the CQC. Then we went through the normal Appointments Commission process. There was a period of silence when long-listing went on and short-listing. I was eventually called for interview. I had been doing my swotting in between by seeing as many people as I could. There was a formal interview involving the Appointments Commission, an independent assessor and two representatives from the Department of Health. Then it went, I understand, to the sub-committee of the Appointments Commission, then forward to the Secretary of State and then I was asked if I would be the preferred candidate.

Q4 Chairman: At the final selection interview, what was the most awkward or difficult question that you were asked?

Baroness Young of Old Scone: I do not think there were any awkward questions. One of the things I had to keep saying was, "Do not expect me to be an expert in health and social care because I have been away from the system for 20 years and was never an expert in social care". Probably the most difficult thing was when we were talking about some of the most controversial aspects of the Bill and the subsidiary legislation where I think there does need to be some change. I was slightly aware that it is quite brave to tell the Permanent Secretary in the Department of Health that you think the legislation needs a bit of a tweak here and there. I think there is

a broad acceptance that some improvement can be made both to the Bill and to the registration system, which is currently out for consultation.

Q5 Sandra Gidley: You mentioned that you will be leaving the Environment Agency after eight years. When do you intend to take up the post?

Baroness Young of Old Scone: If you think I am okay, I would like to take it up as quickly as possible. I think there is a lot going on at the moment and there is a bit of a vacuum with nobody representing the Care Quality Commission. I would like to take it up as soon as it can be arranged. I have had conversations with the Environment Agency Board about that.

Q6 Sandra Gidley: You have been quite candid. You told us that you said at interview, “Do not expect me to be an expert in health and social care”. Obviously, going back through your CV in the past, you do have considerable health experience but social care seems to be completely absent. Do you not think this could create problems?

Baroness Young of Old Scone: I think it is going to be quite difficult to find somebody who has the spectrum across the whole field. I do have a limited amount of involvement with social care but only in respect of the strong interest I had in developing care in the community services for people with learning disabilities. In the mental health field I am old enough to have been involved in shutting some of the big bins and putting in place community services. We worked very closely for example in this patch with Westminster City Council Social Services Department to create joint organisations that delivered care for people in the community, so I have had contact with it but, in terms of personal social care, individual social care, I really cannot claim expertise. I think the most important thing to bring to this job is leadership, vision and the ability to listen to people because there are a lot of folk in the existing organisations and in the stakeholder community and amongst users and patients and their families and carers who have great ideas. I did not know very much about the nuclear industry or the electricity industry or the waste industry before I arrived at the Environment Agency, but I think I have been a reasonably good regulator to those.

Q7 Sandra Gidley: Clearly it is going to be important to have the right people around you. What skills would you like other members of the board to have if you could have your “A” team and complement you?

Baroness Young of Old Scone: I think there is quite a tension here between the size of the board and the representation. My initial thoughts are that I would like to go for quite a small, tight board because I think that means you can develop a team spirit and move fairly swiftly. To be frank, we do not have very long between now and next April. The important thing in terms of representation I believe is not necessarily that we have one of everything on the board, although I think there are going to be some totemic issues like how we get our strong social care

voice because of the concerns that social care will become the poor relation. The important thing for the members is that they are tough, analytical, committed to users and patients, independent and able to work as a team, and that there is a whole range of different ways of bringing in voices from all sources. I think it is important that the interests of health, social care, mental health and the users and the patients and their families and carers come in not just at governance level but at the level of overview of services, at the level of individual inspection and the monitoring level. One of the things I have been persuading to the Department of Health is that we establish a scheme of involvement on which we consult and consult on the way that the Care Quality Commission would move forward in terms of engaging people at all stages of the process, both in designing its regulatory processes and delivering them, and building on some of the good practice that is already out there, particularly in CSCI but also in the Mental Health Act Commission and in the Healthcare Commission.

Q8 Sandra Gidley: Is there time to do that? The timescale for setting up the new commission is quite tight. It clearly would be nice to do that but is it practical?

Baroness Young of Old Scone: Unless we really involve people both in designing the way we do our work and in moving forward and doing it, we will always be a controversial organisation. Part of the success of the Care Quality Commission will be inspiring confidence in a whole range of folks—inspiring confidence in staff at the existing organisations for a start, inspiring confidence in the users that it exists for, and inspiring confidence in the providers of services and the commissioners of the services that they are going to get a fair deal, that they are going to be regulated fairly. Right from the start we must show that we are an inclusive organisation that wants to talk and listen to people whilst still making fast progress.

Q9 Sandra Gidley: When would you expect the other board members to be appointed and to be in post?

Baroness Young of Old Scone: The advert that went out for the Chair’s post also included two commissioners. I am interviewing for those within the next two weeks if I get the job. We have not been able to move very far forward because of the process. Obviously, we need more than just the three of us. I would want to move quickly to get more commissioners on board and also to make fast progress on recruiting the chief executive and getting an interim team around so that we can really start to shape our own destiny because at the moment it is very much lodged within the Department of Health. I think it is important for our independence to be shaping our destiny quite quickly.

Q10 Dr Naysmith: We understand that the pay for this position that you are applying for is round about £60,000 per annum, which seems just a little bit on the low side for such an important post of national significance. How do you feel about that?

8 May 2008 Baroness Young of Old Scone

Baroness Young of Old Scone: You are right. I think it is very low.

Q11 Dr Naysmith: Then why are you applying for it?

Baroness Young of Old Scone: I do not think I have ever gone for a job because I wanted the money. If I did, I would have been doing something completely different from all the things that I have ever done. The more important thing for me is that it is a job that is important for people and society—I am not just doing it for the good of my health—and that it will give me intellectual and personal satisfaction and challenge. This job certainly has both of those. In fact, I have negotiated with the Department of Health that we will not stick at £60,000 because it did say more for an exceptional candidate, and so I am touting the view that I am an exceptional candidate.

Q12 Dr Naysmith: Sir Ian Kennedy, the outgoing chair of the HCC, was paid £160,000. Does that mean that you are going to take a much less hands-off approach than he did because he was very much hands-on every day?

Baroness Young of Old Scone: Ian works seven days a week, he says.

Q13 Jim Dowd: Do you believe him?

Baroness Young of Old Scone: Yes, probably. I will probably work six days a week. I am contracted to work three days a week. They do not want, and I think they are right, an executive chairman. Having been a chief executive for a large part of my life, I know the nightmares of executive chairmen—not referring to Ian, may I say, but the concept. I am content that my particular role will be to help shape the vision, to develop a strong board that can set policy and strategy and hold a strong executive accountable for the delivery of objectives and that that must not stray into being executive. The first year of this organisation is going to be a complete treadmill because we have a lot to do.

Q14 Dr Naysmith: Do you really believe that you will be able to keep it strictly to three days a week? I know people who are chairs of trusts—primary trusts and acute trusts—who are supposed to do three days a week or four days a week. All of them do virtually a full-time job.

Baroness Young of Old Scone: I do not think I have ever had a government job that has said X days a week that has not actually been a lot more than that. I am committed to the idea that I want to be a non-executive chairman, so even though I may be doing a lot, I hope it will be a lot at the right level, not diving down into the organisation.

Q15 Dr Naysmith: Have you applied to do any other work in the two days that theoretically you are going to have spare?

Baroness Young of Old Scone: I am hoping to keep my environment interests alive through my voluntary sector appointments (I have a number of voluntary sector unpaid appointments) and also in the House. One of the reasons that we are amazingly busy at the moment is that there is a large number of

Bills with an environmental component going through the House at present and we are having interesting times on things like the Climate Change Bill and the Housing Bill.

Q16 Dr Naysmith: So you will be one of those peers who is referred to in Hansard as “with your great knowledge of the subject under consideration” when all these environmental issues are being discussed?

Baroness Young of Old Scone: I am hoping that I can keep my great knowledge. One of the worst scenarios is if you stick on any subject when you have become rusty in it. I discovered that when I left the health service. For about a year I was all right and then after that, frankly, I was dangerous, and so I stopped having opinions in public.

Q17 Dr Stoate: The Healthcare Commission, CSCI and MHAC have all been fêted for their independent, strong-minded approach to protecting taxpayers and protecting patients. How will you ensure that the CQC will maintain that independence?

Baroness Young of Old Scone: The composition of the Commission and of the commissioners is going to be important. We need some independently minded people who are not in any way compromised in the situation; they have to be able to be independent personally as well as collectively. I think it is really setting the tone immediately and getting a clear understanding with Ministers that this is what the Commission is going to do. Personally I believe it is strongly in the interests of the political process that if you set up watchdogs, you do not act surprised when they bark. When I first went to the Environment Agency, there was quite a lot of debate about the ability of the Environment Agency to be a strong and authoritative commentator. We did get agreement basically that that is the way we were going to operate. It would be strange for a body like the Care Quality Commission with its very in-depth, day-to-day knowledge of the health and social care system not to be able to comment authoritatively on a whole range of issues. I think it is important to set the tone early. This debate about when the special inquiries can or cannot start in 2009 or 2010 is a bit artificial, to be honest. If something comes up that needs an in-depth, focused look, it will be absolutely fundamental for us to do that.

Q18 Dr Stoate: One of the criticisms of the Bill is that it gives the Secretary of State far too much power to control the way things are. How are you going to address that criticism?

Baroness Young of Old Scone: I have not seen signs of that at the moment. Generally speaking, in terms of the secondary legislation, I am getting a good hearing within the Department about my ideas, and they are only mine at the moment, though I have been talking to the chairmen of the other three commissions. The clause in the Bill that says any other policies that the Secretary of State may direct raised an eyebrow or two, but I gather that is in the Healthcare Commission legislation already. To be

honest, it would be a pretty rash Secretary of State that clipped the wings of its principal commentator on health and social care in terms of its regulator.

Q19 Dr Stoate: I have to agree with you. We are all talking about reassuring the public. You came into the House of Lords in 1997 you took the Labour whip. How are you going to counter criticism that you might be a bit soft on a Labour Government if it came to a showdown?

Baroness Young of Old Scone: I think my track record speaks for itself. I have been a Labour supporter over many years in many public appointments and I leave my political affiliations absolutely at the door. In fact, I “Googled” myself recently and the word that comes up most regularly is “feisty”, which is a word I hate. If I was going to be criticised for anything, it would probably be poking the Government in the eye once too often. The important thing for a regulatory body like the Care Quality Commission is that it absolutely speaks from the basis of authority and knowledge. If we get out into some sphere where we are absolutely able to say, “We are saying this because we know that this is the case and this is us reflecting what is out there” then that is our strongest and surest protection from political pressure and also our strongest assurance for the public that we are authoritative and on their side.

Q20 Dr Stoate: I think you will be able to do that. It is just a question of making sure the public understand that. At the end of the day, a lot of this is about public confidence. The public have to feel reassured that the regulator really is independent and really is able to stand up to a Secretary of State possibly in the future who might not be quite so benign. You feel as though you would be able to do that?

Baroness Young of Old Scone: I am at that point in my career, to be honest, where what can the Government do to me?

Q21 Dr Taylor: So you do not think you were head-hunted because you have been a Labour peer?

Baroness Young of Old Scone: No, I do not think so. You always have slight worries when you are head-hunted late in the process that you are a token woman. I receive lots of calls along that trend. I do not think it was because I was a Labour peer. If there had been a sub-plot that they were trying to get a Labour peer into this post, I think they would have had me on the list a lot earlier.

Q22 Dr Taylor: Moving on to expertise, you have been very honest that you have not worked in the health service since 1991. I think you said within a year of leaving the health service you decided that you would not pass opinions on the health service. It has changed absolutely dramatically since 1991. We have totted up reconfigurations and reorganisations at one stage, and there have been many since then. Are you really going to rely on other people or are you going to try to catch up with all the changes that have happened?

Baroness Young of Old Scone: One of the most important things is to get down there and see services—not just health but social care services—in the raw. I am going to spend quite a lot of time with the three existing commissions. I also want to go out and do what I used to do. Every Thursday morning I used to work with a professional in the health service, either a doctor, a nurse, a community health visitor or psychiatric nurse, whatever. I think I will probably go back to periodic back-to-the-floor type exercises just so that I get a flavour for both health care and social care in those settings. We do have all of the expertise of the three existing commissions. We must retain and build on that.

Q23 Dr Taylor: Just go back over your health experience. From 1985 to 1991 you were Chief Executive of Parkside. What was Parkside and what did it do?

Baroness Young of Old Scone: Parkside was the sort of Mickey Mouse name we put on the bits of north-west London which covered Kensington, Chelsea, Westminster, Brent up to Harrow, that area. I put that together as a merger and it was the full range. It was in the good old days when you could commission and provide; it was the full range of acute, mental health, learning difficulties, community services and of course in close liaison with the family practitioner committee in those days and with the social services departments in each of the boroughs.

Q24 Dr Taylor: What did you do before that?

Baroness Young of Old Scone: Prior to that I was in Haringey Health Authority. I set that up from scratch in 1982 after the de-merger of the area health authorities and the creation of the district health authorities and the bringing in of general management in the health service. Up until then we had had multidisciplinary consensus team leadership. I created Haringey Health Authority and ran it for two or three years before I was moved back to Parkside. Previous to that, I had been in the district based in that same part of north-west London.

Q25 Dr Taylor: You have already said that you would be very keen to keep the expertise from the three merging organisations as far as you can?

Baroness Young of Old Scone: Absolutely.

Q26 Jim Dowd: By way of information, is Old Scone where they used to crown the kings of Scotland?

Baroness Young of Old Scone: Yes.

Q27 Jim Dowd: Do you have a copy of your CV in front of you? There is a part I do not understand, which would not be unusual, other than I think there is a word missing. Under “Policy”, is there a word missing?

Baroness Young of Old Scone: Yes. It should read: “Experience in the development of public policy . . .” My apologies for that.

8 May 2008 Baroness Young of Old Scone

Q28 Jim Dowd: You have had a varied mixture of both executive and non-executive roles in your recent work. This of course is a non-executive post. The relationship between the chair and the chief executive is a critical one in any organisation, particularly in health. The process at the moment is that they are just looking to select a chief executive. Are you going to be closely involved in that?

Baroness Young of Old Scone: If I get the job, yes, I will be talking to the head-hunters and, once the appointment is confirmed, I will look at the long list with them and then a short list and do the selection process.

Q29 Jim Dowd: How do you intend to balance the twin imperatives of obviously a good working relationship with whoever he or she may be plus the fact that they are there in a professional capacity and you are there basically representing the broader community? First, how will you work most effectively with the chief executive and, secondly, how will you hold them to account for the work that they do?

Baroness Young of Old Scone: The important thing in selecting the chief executive is to get someone who is there for their personal qualities but also for their commitment to good outcomes for users and patients and their families and carers. Getting a shared sense of values is a fundamental point and then very rapidly developing, at least on an interim basis with the new commissioners and the chief executive, an outline of what we want to try to achieve in the first few years, a visionary statement so that we can then help create an *esprit de corp* with the existing staff and stakeholders. Trying to keep people fixed on the future is going to be important in making sure that we get the transition right and we do not lose people and lose pace in the transition process. In terms of holding accountable, clearly the Commission will want to set objectives. We will want to ensure that the executive lays out how they will achieve those objectives, that we agree that plan, that we monitor them on a regular basis against a series of performance indicators that are about outcomes as well as process as well as the development of the new organisation. We will do that in a very public way. I think it is important that executives are held very publicly accountable. For example, in the Environment Agency my performance scorecard is published monthly on our website and it is there for all to see.

Q30 Jim Dowd: That is half of the supplementary I was going to ask. It was to see how you would draw on your experience both as Chair of English Nature and as Chief Executive of the Environment Agency. You have answered the Environment Agency part. What about the English Nature part?

Baroness Young of Old Scone: English Nature, when I arrived, was in a difficult position because it had lost the confidence of its stakeholders. It had been too compliant with Government, I think, to be honest, and not sufficient of a champion for nature conservation. As a result, it was heavily criticised by the conservation and environment NGOs and also

by some of the other stakeholders. The important thing there was to get agreement with the existing board that we wanted to raise our heads; we wanted to stand up and be counted. I think that was the most important thing, and the staff really responded in the majority to that. Unfortunately, not all of them did and some of them were in rather crucial positions and we had to have some hard conversations, but ultimately we developed a really good and effective team. English Nature went on to be really, I think, well regarded and in fact to be quite tough with Government on occasions.

Q31 Chairman: I have a few questions on regulation. Obviously you have previous experience as a regulator. Could you tell us how you feel that that his going to fit with this new post?

Baroness Young of Old Scone: I never thought I would see the day when I regard myself as a regulation nerd but I have become one of those, really. I am very interested in the process of regulation and how you avoid it becoming burdensome and bureaucratic and like a process rather than really focused on improvement and outcomes and delivering what stakeholders want and need. I think that is going to be the challenge: to bring some of the experience I have had, both at English Nature and particularly at the Environment Agency but also I chair a group in Europe which I set up of all the environment protection agencies across Europe on better regulation. I have learnt a huge amount from looking at other regulatory systems. I think there are lots of models; in fact we have been talking, in the context of the consultation on the registration system, about not having a one-size-fits-all model and making sure that it is risk-based and proportionate. It is a very different thing regulating a small social care provider compared with regulating a big acute teaching hospital, for example. There is a whole range of new regulatory approaches that are going to have to be brought in to get better regulation of a patient pathway between providers, across the health and social care system, and also get the benefit of the Mental Health Act detention rules linked with regulation of mental health services as well, and also new techniques for regulating commissioning. How you do that poses an interesting conundrum. Some of the regulatory experiences I have had will come in useful. We have already been exploring how some of the models read across into the health and social care field. There is bags of interesting and innovative stuff going on within the three existing regulators and they each have a very different model. The important thing is to pick and mix from each of the models to get the best combination.

Q32 Dr Taylor: Following on from that, what would be your key priorities in health and social care regulation?

Baroness Young of Old Scone: There are short term and long term priorities. The short term priorities are to get the damn organisation up and running and to make sure that we do not lose the momentum of the three existing organisations. Those have to be the

short-term priorities and establishing also an understanding amongst the organisations and providers that we regulate—staff, patients and users, carers and families—what the organisation is about so that we begin to develop confidence. Those are the initial priorities. In the longer term the aim is really not only to have a basic regulatory process which is founded on the registration concept but also beyond that to look at how regulation can help promote the raising of standards beyond the regulatory minimum. We must not just see the criteria that are going to be used for registration being the end of the story. That has to be the minimum and then regulation has to help providers move on from there and improve beyond the regulatory minimum. The other functions of the Commission—its annual reporting on health and social care, its special reviews process and some of the mechanisms that the existing regulators have introduced in terms of quality rating of individual providers—are going to be quite important. One further thing that is going to be a priority is how we put information into the public domain for all sorts of people who need information. Patients and users, carers and families need information. The system itself needs that information in order to be able to compare its own performance. There is nothing like benchmarking to get a bit of competition going between providers. People like yourselves in Parliament need the information in order to be able to hold the health service and social care system accountable. Government needs the information as do many others to be able to put that information in a way that is useful, understandable and really helps drive change. The Environment Agency has focused in the last eight years on providing information in a way which makes it impossible to ignore. Our annual report on business performance is one that business hates because it shines lights on dusty corners where they wish no light was being shone. It is very important that that information is out there in a readily understandable way.

Q33 Dr Taylor: You have used the word “outcomes” in answer to a previous question. Do you have any ideas about how health and social care outcomes could be measured better than they are? We are very short of outcome measurements.

Baroness Young of Old Scone: Measuring outcomes is a problem across all functions and services. I would not want to hazard a guess today. That is one of the areas where I think we need to listen to the existing regulators and also to professional groupings and to the service providers to try to get an agreement about what the appropriate outcome measures are. If you look at the regulatory playing field, there are a lot of people on it. One thing we have to try to do is make sure that we are all singing from the same hymn sheet, that we all have a shared view about what it is important to measure and what it is important to judge you by. Otherwise, you just have regulators adding measurement requirements on providers until it become self-defeating because they are spending all their time producing information. I do not think a regulator is really

successful unless the things that they are measuring are what the managers of the services are also measuring. The virtuous circle is if you can make sure that the things that they ought to be measuring in order to run good and successful services which provide good outcomes and reflect patients’ and users’ needs are the things that you are also measuring that drive that improvement. One of the first jobs I think of the Commission will be to get together with all the other regulators and try and work out exactly how we can streamline the data requirements laid upon providers and get a common view about what outcomes we ought to be measuring.

Q34 Dr Taylor: If you get the job, what would you like to be remembered by after three years?

Baroness Young of Old Scone: The first would be the whole thing not falling over in the process, because that is always one of the risks of mergers. Secondly, I think three years might be quite a challenge bearing in mind we have transition to go through but I would like after a slightly longer period than that for individual patients to have noticed the difference. That is going to be the test of it. If individual patients do not notice the difference, we are not winning. I always said that the Environment Agency could have a very elegant regulatory process but if the environment was going down the tubes, we were not doing a good job and that has to be the test of this one. That was one of the things I missed when I left the health service. When I was at RSPB the birds did not fly down from the trees and say to you, “Thanks for that, you did a good job”. If you are doing a good job in health or social care, real people come and tell you that. I would like to see patients and users feeling confident that their services are improving.

Q35 Dr Taylor: And you really look forward to this more than going back to the RSPB?

Baroness Young of Old Scone: Oh, yes. I have had a ball in all my jobs.

Q36 Sandra Gidley: I want to pick up on something you said, that it is important not to lose the momentum. We would all agree with that and it is easy to say; it is less easy to do, given that, for example, people will be worried about what job they have in the new regulator. We have all seem from the constant reorganisation of PCTs that things just do not get done. The Bill itself gives a gap of a year in which the new commission does not have to produce the independent reports that both existing commissions have done every well. How are you going to keep that momentum and avoid the inevitable?

Baroness Young of Old Scone: I think we have to get the top team sorted quite quickly and the chief executive and commissioners in to develop a shared vision and talk to the staff across the three organisations to secure the positions of as many as possible. In any merger like this it is a remarkably small number of people whose posts are genuinely in doubt. The important thing is that folk are just going to carry on, at least in the short term, doing exactly

8 May 2008 Baroness Young of Old Scone

what they have been doing; we have to give them the absolute reassurance that they are there with us and moving forward into the new organisation. I also think it is important that we set up two sets of teams: a today team and a tomorrow team—the people who are running the merger and creating something that is distinctive and new, and at the same time a strong task on the teams whose job it will be to make sure that the existing services continue to move forward, irrespective. There are ways of doing that within a merger situation. Getting a shared culture is going to be quite important early on. That does not happen easily and quickly because people are very suspicious. If we do not start early, we will not get there. I am sure there are ways, particularly in a merger like this where, generally speaking, we are not being tasked with making reductions; the reductions in funding that have already been applied to the three existing regulators are, I am told, pretty well done and delivered, so we are not in a situation where we are saying that we will try to put a quart into a pint pot. We can actually be pretty reassuring to the vast majority of staff that they will continue to do the important work that they are doing and that, over time, we will look at drawing from the best practice of each to move forward in an evolutionary way rather than a revolutionary way.

Q37 Sandra Gidley: They are two very different organisations that are pulled in different styles to a certain extent. How long is that going to take, do you think?

Baroness Young of Old Scone: That is why I am hoping that, irrespective of what happens politically, we can keep this as an organisation that is not pushed around because it is distracting and not useful if organisations do not have the opportunity really to get going and develop a track record and take forward a programme over time. Nothing is broken in this system; it is not that the system is broke. There is lots of good work going on out there. It is not that we have to do emergency restructuring or reshaping because something is not right. I think we have the luxury of being able, over the next two years, really to reshape the organisation by drawing on the best practice from each. The systems are different because they are doing very different job. We need to recognise the changing pattern of care, particularly new providers coming in, people moving between social and health care settings, particularly some of the self-commissioners and their wish to assemble packages for themselves. All of that means we have to smooth the ability to move between and across systems. That will be an important part of bringing together the process. I do not want to start from scratch. We have too much good going on at the moment.

Q38 Dr Stoate: Some of the organisations that you are going to be regulating spend some scary sums of money—about 12% of GDP, which is almost as big as Tesco's. We are talking about some very large organisations. The budget you are going to have is about £150 million, I am told. Will that be enough?

Baroness Young of Old Scone: At the moment, that is the running rate of the three organisations. We have some additional duties coming on, particularly more active regulation and commissioning and query what is going to happen with primary care. I believe that our role will be to look at what the best model is. I think you can regulate in smart ways that reduce their costs. In the Environment Agency, we have taken 25% out of our regulatory costs in the last three years by doing things more smartly. I think there are ways in which we can make sure the money goes as far as possible. At the end of the day, we will get to the point where we have the system going and we can really assess the costs. I think there is a debate with any organisation. If we are doing good stuff and showing our worth, in successive spending reviews we can show what is possible with what money. I do not see that £150 million as being the last word.

Q39 Dr Stoate: Historically, the three organisations you are going effectively to be taking over have spent a lot more than that. Admittedly, budgets have been cut back in the last few years but initially they had far larger budgets than that. How are you going to cope? Surely most of the economies must already have happened for these budgets to have been shrunk to now?

Baroness Young of Old Scone: I think there are a number of economies. We can achieve benefits of scale and benefits by taking smarter processes from each of the three. The whole issue of how we use data in the most effective ways is going to be very important and the balance between regulating through voluntary information and data provided by the providers, regulating through data that we have collected ourselves, regulating through individual inspection and being on the patch. A balance needs to be struck between that and it will vary for different services, in my view. There are also some back-office savings we can make; there is always a small amount of benefit of scale when you bring together three finance departments, three planning departments, three HR departments and three sets that are competing in that sort of stuff. There are ways in which we need to look at what the right risk-based regulatory system is. What is the real risk and therefore how much investment in regulating that particular service or that particular provider is worthwhile? When I first arrived at the Environment Agency, we used to visit landfill sites four times a week. It is ridiculous. They just sit there for the most part and if an operator is a good one, it runs well and if the operator is a lousy operator, it runs badly. We gave up assessing the landfill sites and started assessing the operators. If the operator was a good operator, the tested outcome was that the outcome would be good; we could back off considerably, visit far less often and spend more time with the chaotic or the dodgy operators who really needed help to go up the curve of performance.

Q40 Dr Stoate: That brings us to another issue because there are going to be more operators in the field in the future with more diversity of provision and far more private sector organisations, some of

which will be quite new and have no track record. Is that not going to make the job far more complicated?

Baroness Young of Old Scone: I think that the registration system is the entry point. Nobody is going to be able to come into the system without getting past the entry point. If we set the right criteria for entry, we should be assuring ourselves of a whole range of things in terms of operator provider competence as well as other quality criteria, and then it will be a case of staying fairly close to that sort of operator until we have a track record established and understand just exactly how good, bad or indifferent they are.

Q41 Dr Stoaite: I am not saying you cannot do it. I am asking: can you do it within the budget? Many of the organisations may be overseas organisations which can be far more difficult to get a real handle on. It is not that you cannot do it but can you do it with the resources?

Baroness Young of Old Scone: This is something that we need to examine. Obviously there will be the need in any regulatory body to prioritise your resources at the areas of highest risk. Highest risk for me is a combination of two things: one is the intrinsic risk of the setting. If you are a detained Mental Health Act patient, you are at huge risk because you are not in control of anything. It is a combination of the intrinsic risk of the care setting and the competency, track record, performance and commitment to quality of the operator. If you can look at both of those, you can start to get a risk rating that allows you to decide where best to prioritise.

Q42 Jim Dowd: Can I look in a bit more detail at some of the issues you have broached already with other members of the committee and, to quote your own words, how you are going to get this damn organisation up and running? I do not expect you to say that the approach that has been adopted is wrong but would it not have been administratively more simple, say, to merge any two of the others, particularly mental health and CSCI, with the Healthcare Commission rather than start with a big bang, if you like, of getting rid of all three and starting again?

Baroness Young of Old Scone: As you know, there has been huge politics behind this for quite a long time. These sorts of mergers have been mooted for a long time. For me, once you have decided that you are going to do it, you are better just to get on with it. If you look at the Mental Health Act Commission, it has a very distinctive way of operating; it is quite small scale. We really have to preserve some of the distinctiveness of that. The big issue is how we merge CSCI and the Healthcare Commission. I have been talking to a number of folk who have done mergers like this in the public sector in the last few years. We are on about the right stretch. We have about a year to really get up and running and then a year when we are, in theory, focused on some priorities around the registration process and hospital-acquired infections and possibly one or two other things that may be inserted into the Bill. I think it is a do-able

prospect to get the organisation up and running. The reason I said to get the damn thing up and running was because it feels a bit lonely at the moment in that there is only me and there is not even really me there.

Q43 Jim Dowd: In general, you are waiting for your army to turn up?

Baroness Young of Old Scone: I am probably going to have to be a foot soldier as well for the first little while until I have a chief executive and team.

Q44 Jim Dowd: How long do you anticipate it will take for those currently employed in the three components to understand that they are members of one different organisation rather than simply doing what they used to do within a triumvirate arrangement?

Baroness Young of Old Scone: Getting staff across the organisation really engaged in the whole early is absolutely fundamental. People need to feel that there is a going concern, that there is a real sense of enthusiasm, something to go for in the new organisation and that they are part of it and that they have an investment in its future. Were my appointment to be confirmed, I intend to go and meet as many staff as possible in the three existing organisations. The important thing also is to give them a feeling of security. For as many as we possibly can give job security to early on, I would like that to happen because I think that is going to settle folk.

Q45 Jim Dowd: Obviously at the margins it may vary, but you look forward essentially to bringing everybody over from all three organisations?

Baroness Young of Old Scone: I think a very large number of people will continue to do what they are doing in the nearly stages and only over time will we see regulatory processes changing. There will be some parts of the organisations where truly we need to get these benefits of scale right from the start. The distressing thing will be for senior staff for whom there are always rather fewer posts than people in organisations. I cannot speak for my chief executive because the one thing I do not want to do is pre-empt structures in an organisation that he or she has to really help develop with senior people within the existing organisations that are going to form part of the future team. I would want the chief executive to move as quickly as possible in deciding what the structure should be and get the top team forged so that they can help give leadership to the organisation as a whole.

Q46 Jim Dowd: I do not know what thoughts you have had on this. What do you regard as the strengths of the current operations, and obviously you would like to see those moved over? Have you identified any significant weaknesses or lack of capacity or ability that you would like to bring in?

Baroness Young of Old Scone: I am not close enough yet to the three organisations. I would love to have become closer in this intervening period but we have been dealing with quite a lot of stuff at the Environment Agency and I am still their Chief

8 May 2008 Baroness Young of Old Scone

Executive. It is interesting that some of the things that people say are the strengths of some of the organisations, the folk in the other organisations see as weaknesses. So there are clearly going to be cultural issues we have to resolve in looking at the model that the Healthcare Commission operates, which is very much a data-rich model, and in looking at data and assessing trends, benchmarking, all of those sorts of things, combined obviously with on-the-ground work but very much seeing if we can spot the early warning signs, as it were, whereas CSCI is very much focused on user involvement in inspections and a much more personalised, touchy-feely process rather than a numbers-orientated process. I think we have to try to find ways of getting the best of both of those together. The Mental Health Act Commission has this amazing model that they get on the cheap because all the part-time commissioners do excellent, sterling work in their role of looking after the rights of detained patients for not very much money.

Q47 Jim Dowd: Obviously over time, and with the Mental Health Act Commission obviously being the longest established there will have been more time, you are going to see that CSCI and the Healthcare Commission will have built up expertise and knowledge in the time they have been the organisation that has been set up. Do you worry that you may lose some of that expertise and knowledge in the transition to CQC?

Baroness Young of Old Scone: I hope if I am appointed, and fairly swiftly, that I can start to reassure people that we are not junking their experience and their knowledge and skills, that we want it and we want to use it and that we can secure as many people as possible and get them really involved in working out how this is going to operate. There is a lot of work to be done and we need all of those folk to put their shoulders to the wheel to help us design and start the new set-up. I hope we can avoid having a loss of expertise because CQC is not only going to have the benefits of the existing organisations but is going to add some value and I hope become a world class regulator showing a lot of innovation and be very much valued by the public and the users and people like yourselves as being an authoritative commentator. There is all to go for.

Q48 Jim Dowd: Can I pose one further question on one of your earlier responses? You said that one of your tests would be that the patient (and I think you said) notices rather than benefits. Surely, the best regulators are ones that the user, whoever it might be but in the case of the health service it is the patient, never sees? The work they do is virtually invisible. All they do is get a better service without necessarily knowing the processes behind it.

Baroness Young of Old Scone: Absolutely, and I suspect I am never going to have patients or the users telling me that I have done a wonderful job. It would be good if we were getting independent feed-back from users and their supporters that the quality of services was improving, that we were getting less of the *cause celebre* failures, all of the indicators of

outcome that we want to see, but that it was noticed by the people who were experiencing these services. That is important. One of the things I have learnt about being a regulator is that nobody loves a regulator. The people you regulate do not like you because they think you are far too intrusive; the people you are regulating for do not think you are tough enough; and the Government does not like you because the people that you regulate do not like you and the people you regulate for do not like you, so you are pretty well unloved as a regulator.

Q49 Jim Dowd: You are not naturally paranoid, are you?

Baroness Young of Old Scone: I am always paranoid! The quiet voice of confidence as a regulator is if, grudgingly, the people who would not want to praise you, eventually do. We had that with business. For years and years business used to go on about failings in the Environment Agency. As a regulator, we addressed their issues and they kept on raising these old chestnuts. We did an independent assessment of it and we can show to them that in fact that things they were accusing us of were eight years out of date. They grudgingly said, "Yes, you are right". We will get there but there will not be a spontaneous outburst of applause.

Chairman: As a lay member of the General Medical Council, I am minded to agree with you on that last point.

Q50 Dr Taylor: Can I go on with the staff for a moment? I quite understand that you want to keep key staff on board but how realistic is this? What proportion of the existing staff from the merged three organisations will you actually be able to keep on board?

Baroness Young of Old Scone: I think in the initial stages certainly there will be a huge range of the folk who are down there doing the work, as it were, who will simply continue on and transfer over in the early stages. The groups that are always most disrupted or where there is most competition for posts in these mergers I think are back-office functions like finance and human resources, IT, accommodation and estates management and those sorts of things and senior management, and there we have to make sure that we move fast to establish the right structures and get people into posts so that they know they have a stake in the future organisation. We have three chief executives, or one acting chief executive and two chief executives, and we are only going to have one of those. We have a number of posts that are duplicated across the three existing organisations. I think the answer there is to get these structures established and to get people into posts very early. That is why the chief executive appointment is really important.

Q51 Dr Taylor: You said earlier on that the existing system is not broken. I am sure you have not had a chance to see the *British Medical Journal* article by Nigel Hawkes, the chap from *The Times*, two or three weeks ago.

Baroness Young of Old Scone: I have heard about it.

Q52 Dr Taylor: He said that they are digging up the trees they have just planted. He really goes on that the error is all the worse because the Healthcare Commission has performed well; it has promised hands-off regulation; it has not been a soft touch; it has retained the respect of those it regulates as well as those of patients. The only confidence it seems to have lost is that of Ministers. You have said if you regulate well possibly the Government does not like you and so why is the Government digging up the trees they have just planted?

Baroness Young of Old Scone: I think you probably need to ask the Government why they are doing it.

Q53 Dr Taylor: Why do you think they are doing it?

Baroness Young of Old Scone: I think there are some benefits with the new organisation without a doubt. One of them is that patterns of care are changing. There is going to be a much more fluid set of pathways between health and social care, and between different sorts of providers as new providers come into the market, and I think it is important that we do build a system that can look right across the process. Certainly in the mental health field for example, I was talking to Kamlesh Patel, the Chairman, about it, and although obviously he may not be a great fan of the merger, he sees the benefit of the organisation that is regulating mental health services and the organisation that is regulating to protect the interests of detained patients being able to look at this as all part of a piece. He finds it intensely frustrating when they are in institutions looking at the rights of detained patients and they are seeing non-detained patients having a poor-quality service, and he can do nothing about it, so there are clearly benefits of the joining-up process. If individual commissioning of care and assembling packages of one's own care is going to become more the pattern in the future, for some people at least, we are going to need to have a joined-up regulatory process in order to make sure that right across the board people can be assured that the care that they are getting is fair, is accessible, is high quality and is safe right across the spectrum of care that they may want to dip into at different stages of their life and at different parts of their experience.

Q54 Dr Taylor: When we did the inquiry into the merger on PCTs, we had very definite evidence that mergers stop things happening for 18 months and take two years to get going again, and Sir Ian Kennedy commented on "distraction, delay and cost". You have already told us that you are very aware of the risks of delays so that to me is one of the huge worries, that when you have got systems that are just beginning to work and to work well we are going to put them back.

Baroness Young of Old Scone: I think we are going to build on them rather put them back. There are ways of keeping the momentum up during these mergers. I have been talking to a number of chief executives and chairmen who have done mergers in the last few years, and certainly moving fast to create

structures; getting a shared vision earlier on; developing a shared culture; reassuring people that their skills are required; and making sure that the existing show continues to run well are absolutely fundamental. I think we have the luxury that we are not actually throwing the whole thing up in the air. We have got the new registration process to create but we have got the ability to keep on regulating in the same model until such time as we choose to change the model, so we have got it in our own hands. I think we do need to have some early wins. We need to show some early benefits of the system so people gain confidence in it, and identifying those quite quickly and moving on those will be important. I think identifying areas where a different regulatory model would help deliver real benefits for users and patients early on is going to be something that is important. Whether hospital-acquired infections is the one to start on, I do not know, but we have been given a task to start on that so that will be the one of the early wins we need to deliver, but there will be others that are as important, and particularly we need to make sure that we are showing early wins right across the spectrum in social care and health.

Q55 Dr Taylor: So the assessments carried out by the Health Care Commission at the moment will not automatically stop?

Baroness Young of Old Scone: I think this idea that somehow we ought to just focus on registration and stop everything else is kind of crazy. I do not think we will see that happening, to be frank.

Q56 Dr Taylor: So you will try and keep existing assessments going?

Baroness Young of Old Scone: We may not do as many. The Healthcare Commission has set quite a cracking pace. I think they have done 16 major investigations in the last few years. It may be we are not setting such a cracking pace but if there are issues that need to be looked at, as a regulator that has a job in ensuring quality and safety, we cannot ignore them; we are going to have to do something.

Q57 Chairman: You mentioned just there about hospital-acquired infections. What do you think about proposals about this that really the evidence base is a bit meagre, I think would be the right expression, issues around deep cleaning and things like that?

Baroness Young of Old Scone: I hope that because we have got a strong regulatory role in this we can move towards an evidence-based approach to it. To be honest, I think the Government has been struggling a bit in needing to find ways of reassuring people that action has been taken. We have now inherited the poisoned chalice and the important thing there is that we take a strong evidence-based approach but we also hold folk's feet to the fire. My horse took a grave dislike to me and trashed my arm a couple of years ago and I spent a lot of time in and out of hospitals, and there are issues about leadership in hospitals. If you look at what is happening when organisations perform less well than they should, it

8 May 2008 Baroness Young of Old Scone

genuinely comes down to the need for stronger leadership at the top and the need for better management and, for me, things like ward management are really important in this. A good ward manager can set the tone for what goes on in a healthcare system. I think that is also the case with all the processes in hospital-acquired infections. It is not necessarily about deep cleaning, it is about day-to-day processes and the way that staff and visitors feel about hospital-acquired infections. We need to get the epidemiology right and the evidence base right otherwise we will be wasting our time. We are not going to have cash to throw around and we have got to do effective things.

Q58 Sandra Gidley: Just something I probably should have picked up on slightly earlier, the current chair of CSCI has a background in social care; the current chair of the Healthcare Commission is clearly experienced in health, and I was looking at the Department of Health briefing about qualities required for the chair of this organisation. I do not know if you share my concern here but there is lots emphasis on the strategic, an understanding of diversity issues but the only mention of health and adult social care is a “commitment to improve it”. Do you think the Department of Health has got the balance right in what they are actually looking for? Are they trying to say that what they have done in the past in selecting chairs with real lifelong experience in their area is wrong?

Baroness Young of Old Scone: I think it would be quite difficult to get someone with real experience across all three sectors. I have the virtue of being pretty unaligned with any of them. I have got broad experience in healthcare, a bit of contact with social care, and some experience in mental health, but it is all very old and rusty, so I am kind of starting from scratch. Certainly my experience from other areas is that there is a virtue in being unaligned and being forced into the position where you have got to listen to lots of people from across all of the sectors from a wide variety of backgrounds—professionals, providers, commissioners, users, whatever. You do not have to know it all yourself and you do not need necessarily to have huge depth of experience. When I first went into environment I did not know anything but I knew how to harness an organisation to deliver results, and I very rapidly became a reasonable acknowledged expert, so the idea that the Chairman has got to be the expert is probably not the right one. The Chairman has got to be committed, understand regulation, and understand how you harness the best of qualities from across a whole range of people, including the commissioners, rather than trying to know everything.

Q59 Sandra Gidley: One of the concerns raised during the passage of the Health and Social Care Bill in the Commons was that it would be easy for the social care voice to get lost and also easy for the mental health facilities to get lost, but that is slightly different. How are you going to decide what the balance will be? Clearly there is an overlap but how

are you going to ensure social care is not lost, and what balance do you see that having with the health aspects in the emerging organisation?

Baroness Young of Old Scone: I think this is where the performance framework for the organisation comes in because clearly there will be things we want to achieve across the spectrum in terms of outcomes, and we need to state these very clearly and develop a kind of contract with society, with stakeholders like yourselves who hold us accountable with government as to what it is we are going to deliver, and that has got to be across the whole of the three sets of outcomes, and then we have got to very publicly account on a regular basis for whether we are delivering them or not, so there is nowhere to hide. We cannot let noise in the system—and there will undoubtedly be noise in the system from time to time—mean that our priorities just follow whatever is most controversial at the time. We cannot allow that to happen. We have got to have a systematic way of setting our priorities, delivering our priorities and accounting for our priorities very publicly. We have the same problem in the Environment Agency. If you looked at the air time on issues, it is overwhelmingly flood risk management, but that is only half of what we do. Issues like regulating the nuclear industry, waste, community involvement in local environmental quality—all of those issues are just as important and we cannot allow the flood stuff to overwhelm the whole thing. I think it was an example of how a good performance framework can really make sure that that does not happen. Last year was ‘nightmaresville’ on flooding because we had the summer floods and then we had the autumn storm surge and then we had floods in January and floods in March. In theory, we could have done nothing except deal with the aftermath of floods and the reports on floods and the reviews on floods, but in fact across our performance outcomes for the year we have done well on all of them because we were absolutely committed to the idea that we would not let that stop business as usual, the things that we said we were going to achieve, and that is one of the sure ways of doing it. The other thing is that we are going to be watched like a hawk. One of the things I do not want to happen is too many statutory committees on the face of the Bill. There is quite a strong concern that because of the worries about social care not getting a fair deal, mental health not getting a fair deal, the users not getting a fair deal, human rights not getting a fair deal, everyone is proposing a whole set of committees.

Q60 Sandra Gidley: That is in the other place; I think we are more sensible this end.

Baroness Young of Old Scone: We are going to be so committee-ridden that we will not get time to do a proper job, and it is far more important that we have got a range of ways of getting views and input and involvement and engagement on these issues rather than statutory committees, but there is no doubt about it, there will be interest groups watching us like a hawk. I would like to build the structures and processes that include people from a whole range of backgrounds and settings and whose interests are

very different in everything we do, right from governance, right through to the design of our regulatory processes, right through to delivering them and reporting and assessing. That is going to be the surest way also of users feeling that they are really getting a proper deal.

Q61 Sandra Gidley: Are you saying that once you have decided on the balance, and I am not still not entirely sure what that balance will be, the framework will be so clear that people will be able to monitor and make sure that attention to certain areas is not slipping. Is that it in a nutshell?

Baroness Young of Old Scone: We ought to be consulting on our longer term strategy and consulting on our three-year corporate plan so that people can see how the resources have been split, what the outcomes are that we are planning to deliver, and then progress reports so that people can see that we have done what we said we would, and if it is not producing the right sort of outcomes that we assess why not. I was slightly taken aback that everyone was so convinced that health would become the dominant partner.

Q62 Sandra Gidley: It always is.

Baroness Young of Old Scone: I was trying to assess why and whether it is because of political heat and steam and public interest, because the reality is the biggest spender at the moment is CSCI not the Healthcare Commission. The biggest slug of money at the moment is in social care regulation, so on the basis that money talks I was kind of assuming that the risk would be the biggie would eat the littlies rather than the other way round, so it is interesting. There may be a good natural tension there because the other thing is when I first arrived in the Environment Agency everybody from the conservation end of environment thought, "Yippee, she's in there, we'll get biodiversity really up the priority list of the Environment Agency." I said, "I'm not going to look at anything that I have known before; I'm going to focus in the first couple of years on the things that I know absolutely nothing about because I need to understand them better." The reality is I am going to have to learn a lot about social care, so I am going to be really getting immersed in that because I need to understand it.

Q63 Sandra Gidley: You mentioned that there were very different cultures within the two organisations, the Healthcare Commission is analytical and CSCI a little bit more warm and cuddly. I am paraphrasing greatly but I think you used—

Baroness Young of Old Scone: I think Denise says "health is from Mars and social care is from Venus".

Q64 Sandra Gidley: I am not sure I like that analogy! When you try to integrate those two you have got some real challenges so you would not want to lose some of the really patient-focused stuff that CSCI has been doing but, by the same token, you would not want to lose some of the hard data that you have

acknowledged we need. How are you going to square that circle? It seems to me there is a tension that is almost irresolvable there.

Baroness Young of Old Scone: I do not think it is a one-size-fits-all thing. We have got umpteen regulatory processes in the Environment Agency depending on what we are regulating. I have been regulated in broadcasting for example (and everybody says the BBC is not regulated but it is, do not kid yourself) and there I have seen regulators develop different regulatory models depending as to what it was they were regulating, so Ofcom's processes towards the BBC are very different from the ones that it develops for the purely commercial sector. Certainly in the Environment Agency the model we use for nuclear is very, very different from the model we would use for waste or for big chemical processing industries, steelworks, aluminium works, those sorts of things, and it is looking at what is it we are trying to achieve, what is the nature of these organisations, what sort of involvement of users and communities do we need and therefore what is the right model for this lot? Therefore I think it is going to be a question of trying to get some common principles of transparency, risk basis, openness, evidence base, but also developing different regulatory models for different conditions, so I do not see us having one size fits all.

Q65 Sandra Gidley: You just mentioned the passage of the Bill and the desire to set up little committees or silos, or what have you, but the Mental Health Act Commission performs quite a specific role which probably does not blend quite as easily with the other two, so is there a case for keeping some of that as a separate department, because it is very rights-focused, and if you are keeping a separate department is there actually any point in it merging in the first place?

Baroness Young of Old Scone: I think on the Mental Health Act Commission stuff there is a really good case for merger because we do want people who are visiting not only to have a strong responsibility for the rights of detained patients but also to be able to pick up issues and merge those with the process of inspecting and regulating mental health services, and I think that is really, really important, so I think we will get benefit there. I do not think we can afford for it to be a separate department. There may be a process that we have got to identify and outline so that we make sure that the rights of detained patients are absolutely looked after because they are at the high risk end of the business, but I would not want to set up separate departments. I think the worst of all worlds—and some of the amendments in the Lords are a bit like that—is a marginally disguised way of getting three separate organisations within some sort of holding company. That is not going to work. We need to get this benefit of learning and integration. It is about getting the right regulatory process for the right function and the right setting.

8 May 2008 Baroness Young of Old Scone

Q66 Dr Stoate: A very simple question: Monitor, which of course regulates foundation trusts, is concerned about duplication, and that you may end up simply doing what they are doing. How will you try and counter that problem?

Baroness Young of Old Scone: I think there is a job to be done in setting out clearly what Monitor will do in the future and what we will do. Monitor is hoping that there will be a fairly substantial movement of most health services into foundation trust status within the next couple of years. They are the economic regulator and the gatekeeper to trust status and the assurance to the public and to government that trusts are effective, economic stewards of public money and are secure as economic entities. Our role in looking at quality and looking at safety will be the same for foundation trusts as it is for all other services, and we obviously will want to work very closely with Monitor as to what the protocols need to be, but I do not think that we can back off that responsibility. I have already had my first discussion with Monitor. I do not think we are in a position where we would simply say Monitor can look after everything in foundation trusts. I think having two sets of quality and safety regulation in different bits of the market would defeat the object of the whole thing, which is if we are going to have a much more fluid set of providers that they all need to be regulated for safety and quality in the same way.

Q67 Sandra Gidley: Anna Walker was quite robust during the passage of the Bill in the Commons. She seemed to strongly take the view that the commissioners should be regulated, but you could also take the view that commissioners, if they are doing their job well and are getting the right care, actually negate the need for yourself or your organisation to a certain degree. Is there a need for a central regulator? Where would you resolve these tensions?

Baroness Young of Old Scone: I must confess in the last three or four weeks I have become acutely conscious that the regulatory playing field has got a lot of players on it. Quality and safety are not just going to be about regulation by CQC but are also going to be about the way that commissioners commission and the way that the SHAs hold the providers accountable through performance management—

Q68 Sandra Gidley:—Or do not.

Baroness Young of Old Scone:—And the commissioners are accountable through performance management—or do not. The thing we must not end up with is belt, braces and string, and so there is going to have to be quite a strong discussion and debate between all of the folk who play a role as to who does what where. I think the CQC does need to have a role in quality assurance of the commissioning process because it is very difficult to see how you can assure patients of safe high-quality care if commissioners are not buying the right things in the right way in ways that help deliver that, but it is important that we get this shared view

about what is important to measure, because it would be kind of crazy if the contracting process that commissioners are undertaking is holding services accountable against one set of data and outcomes, we are doing a different set, and the SHAs have got some other ideas about it. We have got to get a single hymn sheet that everybody is singing from, and we will all be responsible for some different bits of the hymn sheet and we will also all have a shared responsibility for the safety and quality bits but in a different way in a different role. There are quite a lot of amendments down in our House about toughening up the Bill on the regulation of commissioning and I think it needs clarified; the Bill is a bit opaque on that.

Q69 Sandra Gidley: Is there not also a problem in that so much is being devolved to secondary legislation that it is going to be quite difficult to join up all these pieces in the way you see it and there are quite a lot of areas where it is unsure and there is overlap?

Baroness Young of Old Scone: I hope that the secondary legislation under the Health and Social Care Bill can be made to join up. There will be consultative processes on it and CQC, myself and my fellow commissioners and my chief exec have got a vested interest in this all joining up, and that is going to be a big bit of work for us over the next few months.

Q70 Sandra Gidley: You are going to have to set up these new organisations and keep an eye on all the emerging secondary legislation and make it joined up; it is a bit of a mammoth task.

Baroness Young of Old Scone: Life is complicated. I think the most complicated bit is not that actually; the most complicated bit is making sure that we do get (because we are not in control of the other players) from the Department a really good debate on getting clearer roles. We have this gatekeeper duty laid on us under the proposals which are that we act as a kind of referee, as it were, to make sure that all the regulatory processes line up and I think that does need a bit of help from the Department of Health because there is a very wide range of processes, not least the professional regulation process over which obviously we have no control, but we do need to make sure that these all line up and that we are all singing from the same hymn sheet, we are all trying to achieve the same outcomes, and that we are all not falling over each other and duplicating. We will not want SHAs to back off their performance management role. Obviously the commissioners are going to keep on commissioning and that is vital to quality and safety so we need to get an agreement about who is doing what in here but we will not be backing off that total assurance of safety and quality.

Q71 Dr Taylor: I am very glad you have said so definitely that independent regulation of commissioning is absolutely vital. One of the weaknesses of the Bill that you have mentioned is that although it says the CQC has got to conduct

reviews of commissioners, PCTs and local authorities, it does not say how often that has got to be done. Is that something that needs tightening up?

Baroness Young of Old Scone: I am not a great believer in having too much detail on the face of the Bill because one of the bad experiences that I have had is that I helped negotiate the Environment Act which set up the Environment Agency through Parliament in 1995 when it was first set up, I had an NGO hat on at that time, and because we distrusted it we negotiated into the Bill so much prescription of how it would operate that ten years later it looks crazy, but it is in primary legislation, and getting time to amend primary legislation is seriously difficult. I think we have got to make sure that we are giving enough confidence in the Bill as to what the duties and objectives, are, and there is a lot of work to be done on clause 2 which says what the CQC is there for, and then giving flexibility in the secondary legislation to get more of the individual elements clarified, but not too much on primary legislation by way of prescription because it will very rapidly get out-of-date and become a bit of a millstone.

Q72 Dr Taylor: There are lots of well-meaning words about the duty to involve service users and we have lost patients forums and we have got these funny things called LINKs. How are you going to make sure that the public are involved in the work of monitoring, regulating the commissioners?

Baroness Young of Old Scone: That is one of the things that I have proposed that we do some very, very early work on and that is to consult on our approach to user involvement because I think it needs to be at a whole variety of levels. It needs to be at governance level of the organisation, it needs to be at the level of designing our regulatory processes, it needs to be at the level of individual regulation, and I think there is a lot to be gained by looking at the practices of the three bodies and good practice from elsewhere and really coming up with something that is very modern and innovative and forward-looking in terms of a process. Consultative committees are all very well but they are a bit monolithic and I think that we need that full spectrum of user involvement and also to be very early on stating a real commitment to user involvement by providers being a very, very essential part of the quality picture that we would want to monitor. One of the things for example in environmental regulation that is really important is if you have got a high-risk, highly contentious, sometimes rather badly run facility that the public are very anxious about, the important thing is not that the regulator is talking to the local community—although the regulator should—the most important thing is to get the relationship between the operator of that facility and the local community to work much better so they are talking to each other about how the real concerns of local people can be best met. The regulator can oversee that and make sure it happens; and not these dog-leg conversations between local communities and regulators rather than talking direct to the folk that they ought to be talking to. There are a whole variety of ways we want users to be involved.

Q73 Dr Taylor: With commissioners holding providers to account, is it not even more important that it is the public that are talking to the commissioners?

Baroness Young of Old Scone: I think the public need to talk to commissioners and to providers, yes, and we would want to see what the framework for user involvement looks like so that we can (a) use our regulatory processes to encourage and foster it and (b) make sure that our own processes have good user involvement.

Q74 Dr Taylor: You have said you would consult on user involvement. At the moment with the gap between forums and LINKs, how would you do that, who would you consult?

Baroness Young of Old Scone: I think we need to consult with a whole range of people. There will obviously be a need for consultation with local bodies and also some of the national representative bodies, a whole range of stakeholders, all of the folk who have expressed concerns about user involvement. I would like to try and reassure them that we have really taken that on board and that we are doing something effective about it. I am not hugely up to speed on LINKs yet but my understanding is that it is very sporadic across the country and the patterns that are emerging are non-standard, some of them are working, some of them are not working, some do not exist at all. LINKs need a bit of encouragement to get going. I think in the absence of that we need to look at how best we can get user involvement. If you talk to CSCI and the Mental Health Act Commission they are very keen on using users as part of the basic inspection process, the Healthcare Commission has not taken that approach but they have taken another approach, so we just need to make sure we are learning from all three.

Q75 Dr Taylor: One had the impression that the Healthcare Commission were rather against people from forums having any sort of inspection role and we got tied up with words. We all felt it was very crucial that people on LINKs did have a right of entry, not with a formal inspection role but just picking up how things are going on to respond to the people, so would you be in favour of people like that having a right of entry into health service premises?

Baroness Young of Old Scone: I think it is probably too early for me to have a view on that. I think one of the differences between the two systems is that the Healthcare Commission is very much focused on a data-rich model rather than an individual inspection model. I come from the good old days when we had health authorities with local authority members on them and community health councils and they did keep us honest, there is no doubt about it.

Dr Taylor: So you are really saying, as many of us feel, that we should go back to those days!

Chairman: We are not doing that inquiry at the moment. I am just amused by the issue of your phrase about not really understanding LINKs; join the club! Jim?

8 May 2008 Baroness Young of Old Scone

Q76 Jim Dowd: I am just sauntering back through memory lane because I was a London Borough of Lewisham representative on the AHA(T) over the road there at St Thomas's many years ago.

Baroness Young of Old Scone: I was strategic planner at Thomas's probably round about the same time.

Q77 Jim Dowd: Highly likely. This question may be slightly unfair but in the highest traditions of this Committee I am going to ask it anyway. One area of contention within the provisions is the power to penalise failing services, issuing penalty notices, suspending, even closing wards. Sir Ian Kennedy is on record as saying that he regards this as completely inappropriate for a regulator, although the Secretary of State is very keen that these powers at least be present. Can you envisage the circumstances under which you would either threaten or actually use them?

Baroness Young of Old Scone: I come from a background where we have a full range of penalties and, if the worst comes to the worst, we can withdraw licences, although it is a pretty rare event. It has got to be appropriate to the risk and appropriate to the behaviour of the provider. For me regulation is not about setting standards and then when people get it wrong punishing them; regulation is about setting standards and encouraging people to achieve them, and only then if you are not getting a response, escalating the enforcement action. There is no doubt about it that talking softly but carrying a big stick does work. There would be occasions when you could envisage a licence being withdrawn. If there is a range of providers, if you have had conversations with the commissioner, if you are clear that there is an alternative source of that service and the provider is mucking around, not to put too fine a point on it, or else they are just so hopeless that it is not in patients' interests and there is a serious risk, you could see either suspending or withdrawing a licence as being an appropriate response, but it has got to be proportionate and it has got to be risk-based and you have got to be sure that you are not a blind regulator, you are not simply withdrawing a service when people depend on it.

Q78 Jim Dowd: Clearly you would have to utilise it in concert with both the provider and the commissioner, for example?

Baroness Young of Old Scone: Absolutely. I regulate Sellafield, there is only one of it, and it would be a bit of an empty threat for me to say I am going to take your waste management licence away or your nuclear substances regulation away.

Q79 Jim Dowd: Not while Jack Cunningham is alive anyway, that is true!

Baroness Young of Old Scone: The reality is we can apply a range of penalties and we can certainly make life extremely difficult for management through the commissioning process with the Nuclear Decommissioning Authority.

Q80 Jim Dowd: To paraphrase, it is a power you regard as useful to possess but one you would not wish to exercise?

Baroness Young of Old Scone: I think there may be occasions when you would. If you have a range of providers in a field and there is genuine patient and user choice and the service is so bad that you simply do not wish it to continue, it is urgent that you cease the ability of that service to operate, you would either suspend the license or withdraw it (probably suspend because of the consultation processes). We do that at the moment at the Environment Agency. If there is such a huge risk to environment or human health, we will take a licence out for a period so that people have to get their house in order before they get it granted back again.

Q81 Chairman: Do you think the Commission has a role to play in areas like health promotion and tackling health inequalities?

Baroness Young of Old Scone: I think we should regard health outcome in the broadest sense but, with a sense of realism, in the early stages there is going to be a period when we have just got to make sure we have got a very good regulatory process for health and social care services before we spread our wings too wide. There are a whole load of other issues like general practice that have got to come in at some stage and primary care. I think we have got to understand the setting and we have got to really think about health outcome, and in the process of regulating commissioning that is inevitably an issue that is going to come up. If the real issues that are of importance in terms of health outcome are ones that the commissioner is commissioning wrongly for, that may well be an issue we would want to come back to.

Q82 Chairman: Well, that is it. Could I thank you very much indeed for coming along this morning. We are probably going to lock the doors when you have all left and agree a report which we hope to publish as soon as possible, possibly Monday of next week. And thank you again for your attendance.

Baroness Young of Old Scone: Can I just say that I really want this job because I think it is really important!

Memorandum by the Department of Health
THE CARE QUALITY COMMISSION
ABOUT THE CARE QUALITY COMMISSION
Background

The Care Quality Commission (henceforth referred to as the Commission) will be a new independent body responsible for regulating services across the health and adult social care sectors which spend over £100 billion of public money and involve about 2.9 million people employed in delivery of services in over 25,000 establishments. Integration of care pathways—across different healthcare and social care providers and between health and social care—and variety in types of service provision are both increasing. Greater joined-up working will provide better outcomes for patients and people who use services. But people who use services want to be assured that all the services they receive are fair, personal, effective and safe, wherever they are provided. An integrated and flexible regulatory system will help provide the consistency and assurance that the public expects; enable local service innovation; and support local accountability.

Subject to the passage of legislation currently going through Parliament, the Commission will be created in October 2008 to take over from the Healthcare Commission, the Commission for Social Care Inspection and the Mental Health Act Commission from 1 April 2009.

The new body will have four broad functions across England:

- *Safety and quality assurance of health and adult social care services* (registration of public, independent sector (including third sector and social enterprise) health and adult social care providers; monitoring compliance with registration requirements and taking enforcement action if these are breached; conducting further inspections, investigations or reviews of services);
- *Monitoring and keeping under review the operation of the Mental Health Act 1983 and related functions* (visiting detained patients, arranging for specific treatment safeguards under that Act; monitoring the application of the deprivation of liberty provisions in the Mental Capacity Act 2005);
- *Periodic reviews of providers and commissioners* (ensuring good quality information is available to support choice by people who use services; also publishing comparative information about health and adult social care commissioners; providing an annual report to Parliament on the state of health and adult social care and the operation of the Mental Health Act); and
- *Minimising the burden of regulation and inspection* (coordinating and reducing duplication of inspection-related activity across health and adult social care; taking on new “gate-keeping” functions, which are designed to reduce the administrative burden of regulation; working with other bodies).

By carrying out its functions, the Commission’s overarching focus should be to help protect and promote the health, safety and welfare of people who use health and social care services.

The Commission should perform its functions for the general purpose of encouraging continuous improvement, efficiency and a focus on those who use services.

The Commission will also be expected, in carrying out its functions, to:

- demonstrate effective involvement of those who use services by taking into account views and levels of satisfaction amongst those affected by its activities, particularly people who use care services;
- take account of the need to protect and promote the rights of people who use health and social care services—in particular, those of children and vulnerable adults;
- ensure its actions are proportionate to the risks against which it affords safeguards; and
- take account of best practice amongst other organisations performing similar regulatory functions and any future developments in approaches to inspection or regulatory action.

The Government’s response to *The future regulation of health and adult social care in England* sets out in detail the proposed role of the Commission and how it fits within the overall regulatory framework for health and adult social care.

A number of activities are currently under way to prepare for the establishment of the Commission. It is anticipated that the shadow Chair will play a critical role in the continuing phases of designing the new organisation and getting it ready to operate from April 2009. The new Commission will have an annual budget of about £160 million.

The Transition Period

Subject to the passage of legislation, the Commission will be formally established in October 2008 and commence operations in April 2009. This means the bodies that the Commission will replace—the Healthcare Commission, the Commission for Social Care Inspection and the Mental Health Act Commission—will continue to operate their current statutory functions until the end of March 2009.

A vital task for the new Chair, Commissioners and Chief Executive will be to focus on the establishment of the new organisation, at the same time working constructively with the existing Commissions to ensure that the transition from current to new arrangements is effective and achieved with minimal risk and disruption to regulatory functions.

Early priorities

The Commission will also be tasked with introducing a new registration system for health and adult social care providers. To ensure the introduction of the new system is balanced and effective, it will be phased in over the period April 2009 to April 2010—with healthcare-associated infections as the first priority. This will allow sufficient time for the Commission to develop and consult on its methodology. It is expected that the current registration regimes for the sectors currently registered with the Healthcare Commission or with the Commission for Social Care Inspection will continue until March 2010.

A consultation on the framework for the registration of health and adult social care providers includes more detail about the transition arrangements as the Commission takes over from the existing bodies.

Another early priority for the Commission from April 2009 will be to play an active role in delivering the new Comprehensive Area Assessment (CAA). A public consultation on proposals for the introduction of CAA was carried out by the Audit Commission from November 2007 to February 2008.

CAA is being developed and delivered jointly by all the inspectorates responsible for assessing those organisations and services. Currently they are: the Audit Commission, Commission for Social Care Inspection, Healthcare Commission, HM Inspectorate of Constabulary, HM Inspectorate of Prisons, HM Inspectorate of Probation and Ofsted. CAA will provide the first independent assessment of the prospects for local areas and the quality of life for people living there with a particular focus on those whose circumstances make them vulnerable. CAA will look across councils, health bodies, police forces, fire and rescue authorities and others responsible for local public services, which will increasingly be expected to work in partnership to tackle the challenges facing their communities.

The Board of the Commission

The Commission will be led by a small non-executive board of Commissioners with a Non-Executive Chair. The precise size of the board is yet to be decided.

The organisation will have a broad range of responsibilities spanning interests in health and adult social care across the public, private and voluntary sectors. The board will, therefore, be expected to present a range of skills and experience. A separate exercise is in train to identify the shadow Chief Executive.

The Role of the Board

The Board will provide leadership and governance for the organisation. Their key duties will be to:

- provide strategic direction and set operational objectives in line with national policy and legislative guidelines;
- set and maintain the values for the organisation and ensure that its obligation to all stakeholders, including service users and the Secretary of State, are understood and met;
- monitor the achievement of objectives through a framework of effective financial and quality management to ensure effectiveness and value for money;
- collectively promote the effectiveness and success of the Commission; and
- promote and contribute to best practice and knowledge transfer across the sectors it oversees.

THE CHAIR—QUALITIES REQUIRED

The Chair will provide leadership on the board of the Commission and will have a very significant impact and influence on the success of the organisation. The person we are looking for will be able to demonstrate:

- senior board level experience in a complex organisation with high personal standards in relation to governance and assurance;
- leadership and motivational skills and, particularly the ability to create and lead a team of high performing people to achieve shared goals;

- an understanding of regulation in either the public or private sectors with the commitment to improve health and adult social care through effective regulation;
- the capacity, drive and enthusiasm to lead the creation and establishment of a new organisation and develop it as a cost-effective model drawing on their experience in the public or commercial sector;
- the ability to operate creatively and with flexibility in a statutory framework;
- the ability to understand and address high profile, complex and sensitive issues;
- experience of building and sustaining positive relationships with key stakeholders at all levels of government and the public sector; and
- an understanding of diversity issues, equal opportunities and human rights issues and a commitment to applying these principles to the work of the Commission.

THE CHAIR—DUTIES AND ROLE

The Chair will be appointed (and may be removed) by the Secretary of State for Health and will:

- ensure the success of the Commission by developing, with others, a vision for the effective regulation of health and adult social care services within the Commission's remit;
- assist the transfer of work to the Commission by working collaboratively with the Department of Health and the Chairs and boards of the existing Commissions;
- ensure that the new organisation retains the confidence of people who use services, service providers, the wider public and Ministers—reporting annually on a number of matters including laying its annual reports before Parliament and sending copies to the Secretary of State;
- take part in the selection of the Chief Executive, Non-Executive Board members and other key staff as appropriate; and with them; and
- develop plans for delivering the Commission's functions.

The Chair will be expected to undertake the following duties:

- chair full board meetings;
- ensure that the Chief Executive is held to account for the performance of the organisation and his/her accounting officer role;
- ensure that the Commission carries out its statutory functions having regard to such aspects of Government policy as the Secretary of State may direct; and
- ensure that the Commission complies with all other statutory and administrative requirements for the use of public funds.

With the Chief Executive, the Chair will:

- represent the Commission in its dealings with Ministers;
- represent the Commission at national level; and
- develop links with appropriate stakeholders and organisations representing people who use services.

TERMS AND CONDITIONS OF SERVICE

Subject to the passage of legislation, this appointment is expected to be confirmed in October 2008.

Time commitment

The role of Chair will be part-time, up to three days a week. During the period leading up to the Commission's formal establishment in October 2008, the exact number of days per week will be negotiated with the successful candidate.

Appointment and Tenure of Office

- The Chair is appointed for a period of 4 years by the Secretary of State. The appointment may be renewable for a further term.
- Prior to confirmation of appointment, the successful candidate may be required to give evidence before a Parliamentary Select Committee in a pre-appointment hearing. (The Secretary of State will make a final decision on the appointment after careful consideration of the Select Committee's views about the candidate's suitability for the post.)
- This role is a public appointment to a statutory office not employment or a "job". It is not subject to the provisions of employment law and has no contract of employment.

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- As a public appointee, the Chair “must demonstrate high standards of corporate and personal conduct and maintain public service values in the discharge of your duties.”
 - Any conflict of interest that arises in the course of board business must be declared, as must any relevant business interests, positions of authority or other connections with commercial, public or voluntary bodies. These will be published in the Commission’s annual report with details of all board members’ remuneration from public sources.

Appointment process

The post of shadow Chair of the Care Quality Commission was advertised from Wednesday 13 February in various national newspapers.

The recruitment process, including the engagement of recruitment consultants, short listing and interviewing, was carried out by the Appointments Commission independently of the Department of Health. The process run by the Appointments Commission is regulated by the Commissioner for Public Appointments and has been conducted in accordance with the Commissioner’s code, involving an Independent Assessor at all stages, including the shortlist and interview panel.

Members of the shortlist and interview panel were Anne Watts (Chair, Appointments Commission), Chris Dearsley (Independent Assessor), David Nicholson (NHS Chief Executive) and Hugh Taylor (Permanent Secretary, Department of Health). The panel recommended Barbara Young as the most suitable candidate for appointment and this recommendation was endorsed by the Appointment Commission’s Health and Social Care Committee. Subsequently, the Appointments Commission formally recommended Barbara Young to the Secretary of State for Health, who will be responsible for the appointment under the Health and Social Care Bill.

The Secretary of State has accepted the Appointments Commission’s recommendation and invited the Health Select Committee to hold a pre-appointment scrutiny hearing for the Government’s candidate for the post.

In the event of a hearing, the Committee will publish its report which will contain the Committee’s views on the candidate’s suitability for this post. The Secretary of State will consider the conclusions of the Committee’s report carefully before deciding whether to proceed with the appointment.

May 2007
