

Royal College of Nursing response to the Department of Health England's Consultation on the implementation of the recommendations, principles, and actions set out in the report of the Freedom to Speak Up review

Introduction

With a membership of around 425,000 registered nurses, midwives, health visitors, nursing students, health care assistants and nurse cadets, the Royal College of Nursing (RCN) is the voice of nursing across the UK and the largest professional union of nursing staff in the world. RCN members work in a variety of hospital and community settings in the NHS and the independent sector. The RCN promotes patient and nursing interests on a wide range of issues by working closely with the Government, the UK parliaments and other national and European political institutions, trade unions, professional bodies and voluntary organisations.

Background

The RCN welcomed the Freedom to Speak Up review, and noted that it was a timely and realistic review of how many staff feel about raising concerns, as well as having borne out many RCN members' experiences.

General Comments

We are very supportive of the proposals contained in the review, and welcome the Government's commitment to implementing them.

Responses to specific questions

Question 1: Do you have any comments on how best the twenty principles and associated actions set out in the Freedom to Speak Up report should be implemented in an effective, proportionate and affordable way, within local NHS healthcare providers?

In considering this question, we would ask you to look at all the principles and actions and to take account of local circumstances and the progress that has already been made in areas highlighted by "Freedom to Speak Up".

Our initial response to the Freedom to Speak Up Review noted the importance of a consistent approach to the implementation of the twenty principles across local NHS healthcare providers, but with the recognition that there needs to be flexibility in implementation at a local level, to allow for the complexities and challenges that each individual organisation will face. We are pleased to note that so many of the comments made in our initial response to the Review, and indeed many of the issues raised at the student nurses seminar hosted by the RCN, have been addressed in this consultation by the Department of Health.

In terms of general comments as to how best the twenty principles and associated actions set out in the Freedom to Speak Up report should be implemented by local NHS healthcare providers, the RCN would suggest the following;

- Staff engagement (individual and collective via trade unions) is crucial when it comes to changing an organisation's culture into something that recognises the raising of concerns as a matter of routine working life. Previous experiences have demonstrated that in order to foster leadership throughout an organisation, there needs to be a clear driving force from senior management, where Executive and Non-Executive individuals are visibly driving local implementation. We do not believe that it should be seen as solely the Freedom to Speak Up Guardian's role to implement the recommendations.
- Review and feedback is important when it comes to the implementation of the principles, and there should be a directed, formal and reportable way in which both implementation is monitored, and indeed the implemented actions themselves.
- Cultural change requires external support, and the RCN would stress the importance and value of the local Freedom to Speak Up Guardians engaging with local trade unions to support the achievement of cultural change.
- The NMC's code of conduct, which sets out standards of conduct, performance and ethics for the profession, outlines the responsibility placed on nurses to raise concerns about patient safety and act on any concerns raised with them. The guidance for nurses and midwives on raising concerns has also been updated to reflect the new Code in 2015. It is important that any standardised policy or set of directive guidelines aims to compliment and build upon this existing guidance.
- We understand that the majority of actions outlined in Principle 20 are already in place, following the 2013 Care Act and the statutory instrument that came into force in April 2015.
- In response to action 20.1, the RCN would support the extension of whistle blowing protection to all job applicants akin to the victimisation protection provided to those with protected characteristics in the Equality Act 2010 and we welcome the introduction of s.49B Employment Rights Act 1996 from the 26th May 2015 which paves the way for Secretary of State to make such regulations.

- The RCN notes that revalidation, when implemented, will place a requirement on all nurses to reflect, feedback and learn. This may be a useful mechanism for promoting the Freedom to Speak Up principles and supporting wider cultural change.

Question 2: Do you have any opinions on the appropriate approach to the new local Freedom to Speak Up Guardian role?

The RCN supports the establishment of the Freedom to Speak Up Guardian roles across England, as was expressed in our initial response to the Freedom to Speak Up Review. We also recognise that the creation of these roles responds to one of the actions suggested by student nurses at the seminar the RCN hosted with Sir Robert Francis QC, where student nurses asked that NHS organisations had an independent person to speak to about raising concerns. We also recognise that for these roles to be successful in achieving the stated objectives, there is a real need for appropriate support and senior management buy-in to be felt in each and every NHS organisation across England.

In terms of approach to these newly created roles, the RCN feels strongly that the position within each organisation should remain as a senior and independent role, that is strongly supported at executive level, but that also has the power and authority to question and challenge at this level also. We feel that there must be assurances in place to ensure that the individuals appointed into these roles have a well established understanding of the organisation itself, and the local challenges that are faced by the organisation, and that they are given the appropriate support and authority to lead the shaping of organisational culture. Furthermore, as expanded upon in our response to Question 3 below, we feel that the role of Freedom to Speak Up Guardian should be an independent role in its own right, and should exist for each specific NHS organisation in England.

Question 3: How should NHS organisations establish the local Freedom to Speak Up Guardian role in an effective, proportionate and affordable manner?

The RCN believes that the role of the Freedom to Speak Up Guardian should be kept as a dedicated role that requires a dedicated individual to fulfil this role, for each individual NHS organisation across England. We would therefore not want to see existing roles within an organisation having to expand to meet the responsibilities of a Freedom to Speak Up Guardian.

We recognise that in keeping this role independent from existing job titles, NHS organisations will potentially have additional cost pressures. The RCN would therefore welcome a high level review of how the funding for these roles is to be achieved, with consideration given to the central funding of local positions, in order to avoid funds being pulled away from front-line services.

We would encourage an establishment model that ensures that the role of local Freedom to Speak Up Guardian is 'open to all' in terms of application, and that there is an emphasis

placed on the importance of finding the right person to fill the role, with clear central guidelines on job criteria (credibility, local knowledge, ability to challenge, etc.). The recruitment process should also take into consideration the diversity of the workforce and the communities that are served.

In addition, the RCN would also encourage the sharing of best practice, governance and informal advice between NHS organisations when it comes to the establishment of these new roles. Such commitment to openness and shared learning is an important factor in effectiveness and affordability.

Question 5: What are your views on how training of the local Freedom to Speak Up Guardian role should be taken forward to ensure consistency across NHS organisations?

The RCN recognises the need for there to be a consistent approach to the delivery of training for all Freedom to Speak Up Guardians, and would support the provision of such consistency. We would therefore wish to see some centrally determined core training provided for the Guardians. To do otherwise would lead to local variation and this could influence how different regions identify, respond to and report on their workload and outcomes.

However we are also aware of the unique challenges that NHS organisations face at a local level and believe that there needs to be sufficient flexibility in any training model to allow for these local challenges to be addressed / met. The RCN would therefore suggest that freedom to choose training styles, providers and methods locally would be particularly advantageous on an organisation by organisation level, as long as there was assurance that all training provided complies with national standards, based on a curriculum devised jointly by HEE and NHS England. We would welcome a training programme that covered key skills including; independence, autonomy, avoidance of conflict of interest, communication skills and relationship building.

We believe that there needs to also be consideration of the fact that training can be difficult for NHS organisations to deliver, due to resource availability. We would suggest that additional funding may need to be considered given that further training requirements are to be imposed.

Question 6: Should the local Freedom to Speak Up Guardian report directly to the Independent National Officer or the Chief Executive of the NHS organisation that they work for?

Ultimately the RCN feels that there is a significant need for Board level buy-in if this role is to be successful at a local level and within a specific organisation. It's also recognised that establishing a 'just' culture requires significant culture change at a local level, and so an understanding of the local challenges surrounding this is imperative. We would therefore

suggest that reporting lines and accountabilities need to sit within the organisation, and that the local Freedom to Speak Up Guardian's should report to the trust Chief Executive.

However, we also recognise that there are times when an internal reporting process is detrimental to the resolution of complaints or concerns raised. We would suggest that a blanket reporting structure is not sufficiently flexible to accommodate the varied nature of raising concerns and concern resolution. Therefore, whilst we would suggest that there should be a 'hard' reporting line between the Freedom to Speak Up Guardian and the Chief Executive, there should also be a 'soft' communication or reporting line between the local Guardian and the Independent National Officer.

Furthermore, we would like to highlight the concerns raised by student nurses that the Freedom to Speak Up Guardian needs to retain some form of independence in order for there to be sufficient trust that concerns raised will be managed in a way that is appropriate and impartial. Therefore some form of reporting or communication structure between the Independent National Officer and the Freedom to Speak Up Guardian would be beneficial in this regard.

Question 7: What is your view on what the local Freedom to Speak Up Guardian should be called?

The RCN agrees that the best title for the role of local Freedom to Speak Up Guardian is 'Freedom to Speak Up Guardian'. We feel that the other two titles suggested in the consultation document; 'Independent Patient Safety Champion' and 'Independent Staff Concerns Advocate' are not fully reflective of the role itself. For example, not all of the concerns raised by individuals will be specifically associated with patient safety, and there may well be instances where concerns are raised by an individual who is not a staff member.

Regardless of the title chosen for the role, we would agree that, given staff turnover, volume and movement across the NHS in England, it would be particularly beneficial to ensure a consistent role name across all NHS organisations, so that employees know at any given time and place, who the appropriate person is to contact when wishing to raise a concern.

Question 8: Do you agree that the Care Quality Commission is the right national body to host the new role of Independent National Officer, whose functions are set out in principle 15 of the Freedom to Speak up report?

The RCN has considered the merits of Monitor, TDA and the CQC each hosting the role of the Independent National Officer and would agree that the Care Quality Commission is the right national body to host this new role. We recognise the benefits of having the role sit within an organisation that is already so heavily focused on and committed to ensuring the quality and safety of services delivered to patients and service users. We also recognise that information held by the Independent National Officer will be able to support the CQC's own line of work, particularly in the compliance management of organisations which are

seeking to demonstrate their own adherence with the CQC's standards on 'well-led' healthcare services.

The RCN would however seek reassurance that the newly suggested role of Independent National Officer would remain as a truly independent role, which is simply hosted by the CQC, as opposed to working within or for this regulatory body.

Question 9: Do you agree that there should be standardised practice set out in professional codes on how to raise concerns?

There is already guidance on how to raise concerns in the recently updated NMC Code, and we suggest that this should be considered as a starting point if looking to develop standardised practice. We would also agree that following the implementation of the role of Independent National Officer and of the trust level roles of Freedom to Speak Up Guardians (or name equivalent), the responsibilities and processes currently set out in professional codes would need to be updated and re-released to outline the revised protocol on raising concerns (i.e. line manager - Freedom to Speak Up Guardian – Independent National Officer).

The RCN would also like to reiterate the feedback received from the student seminar held with Sir Robert Francis, where there was a noted concern that student nurses are currently falling through the gaps that sit between health education institutions, the NMC and providers of healthcare when it comes to receipt of policy and guidelines. We would encourage that the NMC acknowledge that there are concern raising issues that are specific to students, and offer them further guidance that is specifically tailored to these next generation of nurses.

Royal College of Nursing, June 4th 2015