

## **RCN response to the Department of Health England's review of the NHS Constitution**

### **Introduction**

With a membership of over 420,000 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 has been involved with the NHS Constitution from its inception, and continues to be a firm supporter of its aims and objectives.

### **General Comments**

The NHS Constitution reflects the values espoused by our membership, who are resolute in their commitment to a service that is based upon clinical need not ability to pay, funded from general taxation, and universal in its coverage.

However we remain disappointed at the lack of prominence given to both the document and its accompanying handbook, and the seeming lack of willingness by successive governments to 'give it teeth', and make it a more powerful object for the furtherance of patient-centred care. This may also account for why so many decisions taken across the NHS's many structures appear to be taken without due recourse to the fine words and lofty commitments contained in this important document.

Allied to the above point, and as highlighted in the recently published staff survey, many of the commitments and pledges contained in the constitution are far from being embedded in day to day practice across much of the NHS.

On a number of indices the NHS appears to be actually going backwards, with fewer staff stating that they would be happy for a friend or relative to receive care or treatment where they worked (64 per cent in 2014, 65 percent 2013), and even fewer saying that they would recommend their organisation as a place to work (56 per cent in 2014, 58 in 2013).

Even more worryingly are the indices that remain in the lower numbers, such as effective communication between senior managers and staff (36 per cent), senior managers acting

on staff feedback (29 per cent), managers involving staff in important decisions (thirty one per cent).

While we recognise that many of the respondents to the survey may have been reporting on very different experiences in quite varied workplaces, many of which have been subject to increase stresses and strains over the past year, it is worrying in the context of this consultation that performance against these key indices, which link so directly to the NHS Constitution, are so poor.

## Responses to specific questions

### Mental health

1. We would like to rephrase principle one of the NHS to read: *'The service is designed to improve, prevent, diagnose and treat both physical and mental health problems with equal regard.'* (Annex 2, Change 1).

Do you agree?

Yes, in principle, but we have some comments.

While we wholeheartedly agree with the addition of this principle, which is in line with the government's stated aim of ensuring 'parity of esteem' between mental and physical health, we have grave concerns regarding the practical commitments that the NHS is currently able to make to achieve it.

Our recent report on mental health service 'Frontline First: Turning back the clock?'<sup>1</sup> highlighted in great and fine detail the challenges currently being faced by those working in mental health, not least in relation to numbers of staff lost (3,300 nursing posts over the past four years) and funding.

While we recognise that funding is a major challenge for the NHS, we do not feel wholly comfortable with a declaratory statement that by its very nature could be viewed as setting both patients and NHS staff up to fail.

We would also like to rephrase an existing right to read: *'You have the right to drugs, treatments and psychological therapies that have been recommended by NICE for use in the NHS, if your doctor says they are clinically appropriate for you.'* (Annex 2, Change 7).

Yes, in principle, but we have some comments.

Further to our previous statement, we have concerns that due to the cuts in funding, in some places people are not accessing the range of drugs, treatments and psychological therapies that may be clinically appropriate.

Our research highlighted that impacts of cuts to funding for mental health, which have affected thousands of people who are receiving treatment in both hospitals and community services, and demonstrably led to an increase in people experiencing crises and breakdowns as well as unnecessary hospital admissions and delayed discharges.

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[http://www.rcn.org.uk/newsevents/news/article/uk/rcn\\_warns\\_of\\_turning\\_back\\_the\\_clock\\_in\\_mental\\_health\\_care](http://www.rcn.org.uk/newsevents/news/article/uk/rcn_warns_of_turning_back_the_clock_in_mental_health_care)

## Francis Recommendations

### A patient-centred NHS [Recommendation 4]

2. We would like to change the current wording to: *'Patients will be at the heart of everything the NHS does.'* (Annex 2, Change 2).

Yes, in principle, but we have some comments.

We have no disagreement with this principle, but are firm in our belief that unless adequate resources, which includes funding and staff, are made available across the country, this pledge will not be tenable and will place an undue weight of expectation upon staff across the NHS who are trying to deliver a truly patient focused service against a background of reduced numbers and increasing demands.

### Protecting patients from avoidable harm [Recommendation 5]

3. We would like to include the following wording for staff: *'You should aim to provide all patients with safe care, and to do all you can to protect patients from avoidable harm.'* (Annex 2, Change 12).

Yes, in principle, but we have some comments.

Again, while we have no disagreement with this principle we have grave concerns that in still too many NHS workplaces the prevailing culture works against those staff who seek to ensure that patient safety and harm prevention are made paramount.

The recent NHS staff survey highlighted most keenly how staff still feel that reporting errors would lead to punishment or blaming for those involved<sup>2</sup>; this seemingly despite the many Francis reports, and governmental responses and commitments.

### Helping patients find assistance [Recommendation 5]

4. We would like to include the following wording for staff: *'You should aim to help patients find alternative sources of assistance, when you are unable to provide the care or assistance a patient needs.'* (Annex 2, Change 14).

Yes, in principle, but we have some comments.

The recent staff survey further highlight the need to marry principle with firm resource and staffing commitments, with far too many staff reporting being made unwell by work related stress, and many reporting real concerns about the quality of care their workplace provides.

It cannot be right that 71 per cent of staff report working extra hours to try to deal with demand, and that less than two thirds (64 per cent) say that they would be happy with the standard of care their service would be able to provide to a friend or relative.

### Complying with guidance and standards [Recommendation 10]

5. We would like to include the following wording for staff: *'You should aim to follow all guidance, standards and codes relevant to your role, subject to any more specific requirements of your employers.'* (Annex 2, Change 13).

Yes, and we have no further comments.

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<sup>2</sup> <http://www.rcn.org.uk/newsevents/news/article/uk/rcn-responds-to-2014-nhs-staff-survey-for-england>

### Duty of candour [Recommendation 178]

6. We would like to include the following wording for patients: *'You have the right to an open and transparent relationship with the organisation providing your care. You must be told about any safety incident which, in the opinion of a healthcare professional, has caused, or could still cause, significant harm or death. You should be given the facts, an apology, and any reasonable support you need.'* (Annex 2, Change 11).

Yes, and we have no further comments.

### Fundamental standards [Recommendation 13]

7. We would like to include the following wording for patients:

*'You have the right to receive care and treatment that is appropriate for you, meets your needs and reflects your preferences.'* (Annex 2, Change 4)

*'You have the right to be cared for in a clean, safe, secure and suitable environment.'* (Annex 2, Change 5)

*'You have the right to receive suitable and nutritious food and hydration to sustain good health and wellbeing.'* (Annex 2, Change 6)

*'You have the right to be protected from abuse, neglect, and care that is degrading.'* (Annex 2, Change 8)

*'You have the right to be involved in planning and making decisions about your health and care with your care provider, including your end of life care, and to be given information to enable you to do this. Where appropriate this right includes your family and carers. This includes being given the chance to manage your own care and treatment.'* (Annex 2, Change 10).

Yes, in principle, but we have some comments.

We are fully supportive, as noted in our general comments, for the NHS Constitution to be given greater weight, and most especially in regards to giving guarantees about standards of care and treatment.

However it does seem inequitable that an increase in the rights for patients is not echoed in an increase in the rights for staff, on matters that in practice are fundamental to enabling staff to deliver care in line with the rights proposed to be imbued to patients.

We would suggest that a number of the pledges in the Constitution as currently drafted are given due consideration for conversation into rights.

Specifically:

- To provide all staff with clear roles and responsibilities;
- To provide all staff with personal development, access to appropriate education and training for their jobs, and line management support to enable them to fulfil their potential;
- To having a process for staff to raise an internal grievance;
- To encouraging and supporting all staff in raising concerns at the earliest reasonable opportunity about safety, malpractice or wrongdoing at work, responding to and, where necessary, investigating the concerns raised and acting consistently with the Public Interest Disclosure Act 1998;

### Transparency

8. We would like to include the following wording for patients: *'You have the right to transparent, accessible and comparable data on the quality of local healthcare providers, as compared to others nationally.'* (Annex 2, Change 9).

Yes, in principle, but we have some comments.

While acknowledging the importance of transparent, accessible and comparable data, we feel that without such data being itself meaningful, or without it being presented in a meaningful way, that it is of little or no use to patients or those working on their behalf.

Any information presented to aid choice of, or differentiation between different options or services must be presented in way that enables people to easily and confidently use it.

### Armed Forces Covenant

9. We would like to include the following wording *'As part of this the NHS will ensure that in line with the Armed Forces Covenant, those in the Armed Forces Community are not disadvantaged in accessing health services in the area they reside.'* (Annex 2, Change 3).

Yes, and we have no further comments.

10. Do you have any other comments about the NHS Constitution?

We welcome the opportunity to continue to shape this important document, and in a manner that will hopefully enable it to have both real meaning and actual benefit to those who seek to use it; whether they be patients or employees.

**11.3.2015**