



**RCN Policy and International Department**  
**Policy briefing 37/12**  
**November 2012**

# **Consultation on strengthening the NHS Constitution**

RCN Policy and International Department  
020 7647 3723  
[policycontacts@rcn.org.uk](mailto:policycontacts@rcn.org.uk)  
[www.rcn.org.uk/policy](http://www.rcn.org.uk/policy)

## **SUMMARY**

- **DH England published a consultation on making changes to the NHS Constitution on November 6, to run until January 28.**
- **The consultation is in response to the second Future Forum report, which raised a number of concerns about the content, as well as public awareness and understanding of the document.**
- **It contains proposals in seven specific areas; patient involvement and shared decision-making, feedback, a duty of candour, integrated care, use of patient data, recognising the value of staff, and the NHS's commitment to dignity, respect and compassion.**
- **The review of the Constitution will be undertaken in two parts; the first part looking at consultation proposals, the second part to be started following the publication of the Francis Report in January, and looking at complaints and redress, or 'teeth and traction'.**

## **About the RCN**

With a membership of over 410,000 registered nurses, midwives, health visitors, nursing students, health care assistants and nursing cadets, the RCN is the voice of nursing across the UK and the largest professional union of nursing staff in the world.

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 institutions, trade unions, professional bodies and voluntary organisations.

The RCN is a member of the European Federation of Nurses Associations (EFN), the European Federation of Public Service Unions (EPSU) and the European Public Health Alliance (EPHA)

## Background

The NHS Constitution was first published in 2009, to provide a central resource for patient, staff and the general public, about the core principles underpinning the provision of NHS care in England.

Although it has no legal standing, it elucidated in simple form the rights and responsibilities shared by patients and their carers and families, and by staff employed in the provision of NHS care.

The Constitution itself is supported by a handbook, which provides greater detail about the background and legal basis of the various rights, duties, and responsibilities contained in document.

In addition, while the Constitution does not in itself have any legal function it is referenced in the Health Act 2009, which requires that all providers of NHS services are required to take account of it in all decisions and actions.

The Health and Social Care Act 2012 has provided further support to the Constitution, by placing a duty to promote it onto the new NHS Commissioning Board and Clinical Commissioning Groups, as well extending the duty to have regard to it to the Secretary of State, and local authorities when exercising their new public health functions,

As a consequence of these changes, and following a review into the effect of the Constitution, the Secretary of State commissioned the Future Forum, under the chairmanship of Professor Steve Field to make recommendations as to how it might be given greater resonance across patients, the public and staff.

## New Proposals

The consultation proposes making changes to Constitution's text in relation to eleven specific areas.

1. *Patient involvement* – amending the text to identify more clearly the NHS' role in supporting individual's self-management, and adding a pledge to involve patients in care planning and recording;
2. *Feedback* – clarifying NHS organisations responsibility to act on feedback;
3. *Duty of candour* – amending the pledge to reflect the new contractual obligation placed on providers of NHS care;
4. *'Making every contact count'* – setting out a responsibility for staff to use every appropriate opportunity to support patients and colleagues health and well-being;
5. *Integrated care* – explaining more explicitly the central place of patients, families and carers to the delivery of integrated care;

6. *Complaints* – explaining more explicitly the complaints processes available to patients, in line with complaints legislation passed in 2009. This will be further explored in another consultation, scheduled to begin after the publication of the Francis Report, in January 2013.
7. *Patient data* – explaining more fully patients rights in respect of the use of their information across the NHS;
8. *Staff rights, responsibilities and commitments* – amending the text to better reflect the importance of staff being valued and supported, and given open and positive working environments;
9. *Parity of esteem between mental and physical health* – to reflect the 2011 mental health strategy, ‘No Health without Mental Health’;
10. *Dignity, respect and compassion* – strengthening the wording in the values section, and adding a pledge to ensure patients do not have to use mixed sex accommodation;
11. *Local Authorities* – a technical amendment to clarify the inclusion of public health service functions within the Constitution’s scope.

## **RCN Issues**

The RCN has taken an active part in the work of the Future Forum, from which these proposals have been developed, and specifically in the wording for the amendment relating to staff rights, responsibilities, and commitments.

The RCN is broadly supportive of the NHS Constitution, and in general has welcomed the proposals to amend those aspects of it relating to improving patient involvement, valuing and supporting staff, and providing for more integration across health and social care provision.

However we do have concerns over some aspects, not least the proposals relating to patient data and the duty of candour, and we will be consulting with our membership over the next months in order to produce a full response in January 2013.

### **For more information contact:**

Mark Platt - Policy Advisor, Patient and Public Involvement

E: [mark.platt@rcn.org.uk](mailto:mark.platt@rcn.org.uk)

T: + 44 20 7647 3571

### **Further information:**

NHS Constitution - [NHS Constitution - Patient choice - NHS Choices](#)

The consultation - [Views sought on strengthening NHS Constitution](#)

RCN commentary - [RCN welcomes launch of NHS Constitution](#)