

Council Meeting, 26/27 March 2014

HCPC response to the Final Report of 'A Review of the NHS Hospitals Complaint System Putting Patients Back in the Picture' by Right Honourable Ann Clwyd MP and Professor Tricia Hart

Executive summary and recommendations

Introduction

The final report of the 'Review of the NHS Hospitals Complaint System Putting Patients Back in the Picture' by Right Honourable Ann Clwyd and Professor Tricia Hart was published in October 2013. The review was commissioned by the Prime Minister and the Secretary for Health following Robert Francis QC's report on the Public Enquiry into Mid Staffordshire NHS Trust.

The attached paper reviews the report and its recommendations, identifying the recommendations which are relevant to us; what we currently have in place; the action we have taken or will take as a result of the recommendations; the timescales for implementation; and arrangements for reporting progress.

Decision

The Council is invited to

- (a) discuss the attached paper; and
- (b) agree to the proposed action plan

Background information

- Report of 'A Review of the NHS Hospitals Complaint System Putting Patients Back in the Picture' by Right Honourable Ann Clwyd MP and Professor Tricia Hart: [NHS hospitals complaints system review - Publications - GOV.UK.](#)

Resource implications

There are no additional resource implications as a result of this paper.

Financial implications

There are no additional financial implications as a result of this paper.

Appendices

Appendix 1 – Recommendations
Appendix 2 – Pledges to Act
Appendix 3 – Meeting complainants

Date of paper

12 March 2014

1. Introduction

- 1.1 In October 2013, the final report of the 'Review of the NHS Hospitals Complaint System Putting Patients Back in the Picture' ('the Report') was published.
- 1.2 The terms of reference of the review were to consider the handling of concerns and complaints in NHS hospital care in England and the co-Chairs were encouraged to make recommendations about:
 - any aspect of the NHS complaints arrangements and other means by which patients make concerns known;
 - the way that organisations receive and act on concerns and complaints;
 - how Trust Boards and managers carry out their functions; and
 - the process by which individual NHS organisations are held to account for the way that they handle concerns and complaints.
- 1.3 Evidence for the review was collected from the following sources:
 - patients, relatives, friends and carers;
 - NHS complaints managers; frontline staff and board members; and
 - leading organisations in the health and social sector.
- 1.4 This document outlines our response to the Report including discussing the recommendations most relevant to our work and some actions for us over the short and medium term.

2. Our response to the report

- 2.1 The Report makes a number of recommendations which focus on four areas for change: improving the quality of care; improving the way complaints are handled; ensuring independence of the complaints procedures; and whistle-blowing.
- 2.2 We are not specifically mentioned in the Report's recommendations and some of them are not relevant to our regulatory functions. However, a number of recommendations are relevant to professional regulation and complaint handling more generally, or are relevant in a broader way to us as an organisation.
- 2.3 The Report's recommendations have been carefully considered to assess which might be relevant to us in some way and to decide what action, if any, we might need to take.
- 2.4 The recommendations in relation to improving the quality of care focus on if standards of care were better and patients felt they could raise concerns on the ward and see them dealt with at the time, many would not feel they have to complain at all. The majority of these recommendations are not relevant to our work.

- 2.5 The recommendations in relation to improvements in the way complaints are handled focus on changes to how hospital staff approach dealing with complaints. Some of these recommendations can be translated to how our registrants deal with complaints. Whereas other recommendations can be translated into how we as an organisation deal with customer service complaints and also how we deal with FTP concerns.
- 2.6 The recommendations in relation to ensuring independence of the complaints procedures focus on bringing more independence into the complaints process and complaints advocacy at a local level. Given our statutory standing as a regulator, the majority of these recommendations are not relevant to our work. However the principles of the main recommendation may be considered in relation to our FTP processes.
- 2.7 The recommendations in relation to whistleblowing largely focus on employers however the principles of the main recommendation may be considered in relation to our guidance about whistle-blowing.
- 2.8 The Report also specifies three drivers for change (i.e. how to ensure implementation of the recommendations). Firstly, consumer power, in that patients and the wider public must be encouraged to insist on a better complaints system for the NHS. Secondly, a champion for complaints reform, in that the Report sets out a number of key tasks for the CQC to take forward through the Chief Inspector of Hospitals. Finally, pledges to act, in that a number of organisations have pledged to take action. The Report commends these organisations and encourages others to follow suit. Regulatory bodies which have pledged are the NMC, GMC and CQC. Other bodies include the PHSO and the Local Government Association.
- 2.9 The action plans that follows (appendix 1 and 2) identifies the discrete, specific actions we have identified for the short to medium terms in order to meet or contribute to meeting, the Report's recommendations.
- 2.10 We will keep our action plan under regular review and will publish a report on progress within a year.

Appendix 1

	Report recommendation	Response – what we have in place	Response – future commitment	Area	Timescale
	Improving the quality of care				
1	There should be annual appraisals linked to the process of medical revalidation which focus on communication skills for clinical staff and dealing with patient concerns positively. This goes hand in hand with ensuring that communication skills are a core part of the curriculum for trainee clinical staff.	n/a	The HCPC is continuing to explore how or whether it should adapt its approach to continuing fitness to practise through a programme of research.	Policy and Standards	2014-2015
2	Patients should be helped to understand their care and treatment. While written information is helpful, it is always important to discuss diagnoses, treatments and care with a patient. Patients frequently need to revisit topics already discussed. Where appropriate, their relatives, friends or carers may be included in discussions.	Standard 7 of the SCPE - 'You must communicate properly and effectively with service users and other practitioners'.	We will consider whether we need to make any changes to this standard as part of the forthcoming review.	Policy and Standards	Considered as part of the work of the Professional Liaison Group (PLG), 2014-2015
	Improvements in the way complaints are handled				
3	Attention needs to be given to the development of appropriate professional behaviour in the handling of complaints. This includes honesty and openness and a willingness to listen to the complainant, and to understand and work with the patient to rectify the problem.	Standard 13 of the SCPE – 'You must behave with honesty and integrity and make sure that your behaviour does not damage the public's confidence in you or your profession'.	We will consider inclusion in the SCPE of a specific standard or content on complaint handling as part of the forthcoming review.	Policy and Standards	Considered as part of the work of the Professional Liaison Group (PLG), 2014-2015

4	Staff need to record complaints and the action that has been taken and check with the patient that it meets with their expectation.	n/a	We will consider inclusion in the SCPE of a specific standard or content on complaint handling as part of the forthcoming review.	Policy and Standards	Considered as part of the work of the Professional Liaison Group (PLG), 2014-2015
5	Trusts should actively encourage both positive and negative feedback about their services. Complaints should be seen as essential and helpful information and welcomed as necessary for continuous service improvement.	<p>We have several ways in which we encourage feedback, for example:</p> <ul style="list-style-type: none"> • our customer service webpage encourages feedback, good or bad, from all users of our services; • our Registration webpages encourages feedback from our registrants on the service provided by the Registration Department via an online survey; • our Education webpages explains how concerns about an approved programme of study may be raised; • our FTP webpages encourages feedback from employers on the webpages which have specifically designed for them; and • we ask that each witness to a FTP hearing complete a witness feedback form. 	As part of the proposed FTP department work plan for 2014/15 we are looking at ways to enhance our feedback mechanisms. This will include a registrant and complainant survey.	FTP	2014-15
6	Its needs to be clearly stated how whistle-blowers are to be protected and gagging clauses should not be allowed in staff contracts.	<ol style="list-style-type: none"> 1. We have a whistleblowing policy for HCPC employees. 2. We have a process in place to deal with registrants acting as whistle-blowers when raising FTP concerns. 3. We are currently reviewing how to 	<ol style="list-style-type: none"> 1. We will review our whistleblowing policy for HCPC employees. 2. We will review our process to deal with registrants acting as whistle-blowers in FTP. 	HR, Policy and Standards and FTP	2014-15

		deal with registrants acting as whistle-blowers when raising other concerns about areas such as Education and Registration.	3. Once our review is complete, we will consider what changes, if any, we need to make.		
7	Every Chief Executive should take personal responsibility for the complaint procedure, including signing off letters responding to complaints, particularly when they relate to serious care failings.	We have a Service and Complaints Manager who coordinates our response to the customer service complaints we receive. The Service and Complaints Manager escalates complaints as appropriate to the Chief Executive.	n/a	Secretariat	
8	There should be Trust Board-led scrutiny of complaints. All Trust Boards and Chief Executives should receive monthly reports on complaints and the action taken, including an evaluation of the effectiveness of the action.	A customer service report is presented at each monthly meeting of the EMT. A yearly review of themes from complaints has previously been considered by the Finance and Resources Committee and will be considered by the Council.	n/a	Secretariat	
9	There should be a new duty on all Trusts to publicise an annual complaints' report, which should state what complaints have been made and what changes have taken place.	A yearly review of themes from complaints has previously been considered by the Finance and Resources Committee and will be considered by the Council.	n/a	Secretariat	
10	Every Trust has a legislative duty to offer complainants the option of a conversation at the start of the complaints process. This conversation is to agree on the way in which the complaint is to be handled and the timescales involved.	n/a	We have thoroughly assessed this recommendation in relation to our FTP procedure and have decided to take no action at this time however will re-review in future. Please see paper at Appendix 3. The reasons for our decision can also be applied to meeting those individuals who make a complaint about our service.	Secretariat and FTP	Review as appropriate in future.

11	Commissioners and regulators should establish clear standards for hospitals for complaint handling.	n/a	See recommendations 3 and 4 - we will consider inclusion in the SCPE of a specific standard on complaint handling as part of the forthcoming review.	Policy and Standards	Considered as part of the work of the Professional Liaison Group (PLG), 2014-2015
12	We welcome the on-going discussions on making a Duty of Candour a statutory requirement and recommend that a Duty of Candour is introduced.	n/a	We will consider the inclusion of a specific standard or content in the SCPE addressing the underpinning principles of a duty of candour.	Policy and Standards	Considered as part of the work of the Professional Liaison Group (PLG), 2014-2015
	Greater perceived and actual independence in the complaints process				
13	When Trusts have a conversation with patients at the start of the complaints process they must ensure the true independence of the clinical and lay advice and advocacy support offered to the complainant.	We remain neutral throughout the investigation of a FTP concern.	We will review independence principles in relation to the FTP procedure.	FTP	2014-15
	Whistle-blowing				
14	Clear guidance for staff on how they should report concerns, including access to the Chief Executive on request.	<ol style="list-style-type: none"> 1. We have a whistleblowing policy for HCPC employees. 2. We have a process in place to deal with registrants acting as whistle-blowers when raising FTP concerns. 3. We are currently reviewing how to deal with registrants acting as whistle-blowers when raising other concerns about areas such as Education and Registration. 	<ol style="list-style-type: none"> 1. We will review our whistleblowing policy for HCPC employees. 2. We will review our process to deal with registrants acting as whistle-blowers in FTP. 3. Once our review is complete, we will consider what changes, if any, we need to make. 	HR, FTP and Policy and Standards	2014-15

Appendix 2

	Pledges to Act	Response – what we have in place	Response – future commitment	Area	Timescale
	NMC				
1	The NMC's Code and education standards include clear duties on nurses and midwives in relation to complaint handling, communication and raising concerns. The NMC will be undertaking a planned review of the Code next year and will ensure these duties are highlighted in the revised Code which will form the benchmark for appraisals and revalidation. Plans to do so by December 2014.	See recommendations 2, 3, 4, 6, 11 and 14.	See recommendations 2, 3, 4, 6, 11 and 14.	Policy and Standards	As above
2	The NMC will improve the experience of patients and other complainants who become involved in their proceedings by providing more information and support throughout the process. Plans to do so by April 2014.	FTP currently have a 'improving the FTP experience' workplan with a number of activities, such as a complainant survey and a Peer Review by the Patients Association.	We will review this workplan in light of the Report and prioritise the work activities as appropriate.	FTP	2014-15
3	The NMC will work more closely with other regulators and healthcare organisations to share data and intelligence including, where appropriate, complaints information and patient feedback, in order to enable them to better protect the public.	We have MoU's with the CQC and the other Care Councils of the UK. We are currently working with the Data and Barring Service to develop a MoU. We are also currently working with NHS Protect to develop an information sharing agreement.	We will have the new agreements in place shortly.	FTP	June 2014
4	The NMC plans to have a new operating protocol and data sharing agreement in place with CQC by	We are currently working with the CQC to develop an operating protocol and an information sharing agreement.	We will have the protocol and agreement in place shortly.	FTP	June 2014

	December 2013.				
	GMC				
5	<i>Good medical practice</i> sets out what is expected of doctors, including in communication and partnership working with patients. The GMC is examining how these skills can be better reflected in post graduate training and also promoted as part of CPD. The GMC plans to consult with patients and others on this work in early 2014.	See recommendation 2.	See recommendation 2.	Policy and Standards	As above
6	The GMC believes there will be increasing use of instant patient feedback and welcomes greater transparency and patient involvement this brings. It has produced guidance for best practise for patient feedback as part of the revalidation process.	See recommendations 3 and 4.	See recommendations 3 and 4.	Policy and Standards	As above
7	The GMC will act to support patients through fitness to practise cases, undertaking to take tailored face to face opportunities to explain the process and outcomes. Interim findings from a pilot programme are positive and if the final evaluation findings are favourable the programme will be rolled out in 2015.	See recommendation 10.	See recommendation 10.	Secretariat and FTP.	As above
	CQC				
8	Work closely with and share information with regulatory partners	We are currently working with the CQC to develop an operating protocol and an	We will have the protocol and agreement in place and we will	FTP	June 2014 and on-

	about complaints.	information sharing agreement. We are also a member of the CQC Ambulance Advisory Group (a group is to contribute to the design and development of the CQC's new regulatory approach for ambulance services by providing expert advice, opinion, challenge and a steer on issues as they arise).	continue to contribute to the CQC Ambulance Advisory Group.		going
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Appendix 3

Offering service user complainants the opportunity to meet with the HCPC during the fitness to practise process

1. Introduction

- 1.1 This paper considers whether, as part of the fitness to practise process, we should offer all service user complainants the opportunity to meet with us when they raise a concern thereby giving them the opportunity to explain their concern/s fully so they can be sure that we have understood.
- 1.2 The paper also considers whether we should meet with all service user complainants at the end of investigations to improve the way we explain the reasons for our decisions in cases.
- 1.3 It should be noted that this paper refers to service user complainants who are raising fitness to practise concerns and not service user complainants who are making a complaint about the service they have received from the HCPC or a decision made by the HCPC.

2. Background

- 2.1 The final report of 'A Review of the NHS Hospitals Complaint System Putting Patients Back in the Picture' by Right Honourable Ann Clwyd MP and Professor Tricia Hart states that patients want a complaints system that is easy to understand and to use; that is easily accessible and does not require any particular expertise to navigate; and that takes account of the difficulties many people face in expressing themselves or giving evidence, particularly at times of stress, ill health or bereavement.
- 2.2 The report goes on to state, in its recommendations, that: 'Every Trust has a legislative duty to offer complainants the option of a conversation at the start of the complaints process. This conversation is to agree on the way in which the complaint is to be handled and the timescales involved'.
- 2.3 The report also describes how the GMC has pledged to support patients through fitness to practise cases and is undertaking a pilot of tailored face to face opportunities to explain its process and outcomes.

3. HCPC current position

- 3.1 All fitness to practise concerns are received in writing and we generally communicate with complainants in writing only. We may speak with complainants over the telephone however it is likely that this contact will be initiated by the complainant.
- 3.2 Unlike NHS Trusts there is no legislative duty for us to offer complainants the option of a conversation at the start of the process.

- 3.3 Notwithstanding the above, we recognise that it may not be possible for all complainants to put their concerns in writing (for example, they may not be able to write for a physical reason). In these circumstances, we have a process in place to take concerns over the telephone. We also recognise that in some exceptional circumstances it may not be possible for a complainant to put their concerns in writing or give them over the telephone (for example, they may have literacy and speech difficulties). In these circumstances, we have a process in place to meet the complainant to take their concerns in person.
- 3.3 We have FTP Operational Guidance documents to assist staff in taking fitness to practise concerns in both these circumstances.
- 3.4 It is relatively rare that we take concerns over the telephone and extremely rare that we take concerns in person.
- 3.5 We have no process in place to meet with complainants at the end of an investigation to explain the outcomes. However, in one case, where the complainant was deaf and had made several complaints about the outcome of her complaint, we did agree to meet with her to assist her understanding. We organised for an interpreter to be present at the meeting.

4. The GMC pilot

- 4.1 In September 2012 the GMC launched a new Patient Information Service to improve the way they communicate with those who make a complaint about a doctor. The pilot involves two different meetings; an initial stage meeting straight after someone has made a complaint and an end stage meeting after the GMC has finished its investigation and decided what action, if any, to take.
- 4.2 The initial stage meeting provides the patient with a chance to ask the GMC any questions about what happens when a complaint is investigated and how outcomes are decided. It also provides the GMC with a chance to ask for clarification if there are any aspects of the complaints which the GMC does not fully understand and to refer people to services which may be able to provide emotional support during the investigation.
- 4.3 The end stage meeting can happen at either the end of an investigation or the end of a panel hearing. It provides the GMC with the chance to explain what they are going to do and reasons why; the options for next steps; and the details of organisations that can offer further help.
- 4.4 The pilot is for 100 meetings and only covers complaints from people living in the Greater London and North West regions. When the pilot is complete, the GMC will commission an independent evaluation before it decides whether to extend the service across the UK.
- 4.5 The service is for anyone who is a patient, a relative of a patient or other member of the public who has made a complaint to the GMC about a doctor's fitness to practise. They may bring a friend, family member or supporter to the meeting if they wish. They are invited to meetings at the GMC's London or Manchester

offices only (if patients find it more convenient to discuss matters over the telephone, the GMC will arrange this on request).

4.6 The meetings are run by a Patient Information Officer. The GMC created this role for the pilot as the skills needed for the meetings are different to those of Investigating Officers.

5. Benefits to the HCPC

5.1 Offering all service user complainants the opportunity to meet with us may help us to:

- ensure we fully understand the details of the complaint;
- help service user complainants understand our role and function; and
- explain the processes by which a certain outcome may be reached.

5.2 The greater engagement and explanation of our processes may reduce the number of questions arising from our investigations.

5.3 It would be a proactive step in satisfying the recommendations of the Clwyd and Hart review even though the recommendations are not directly relevant to us. Further, as the Clwyd and Hart review came about as a direct result of the Francis Inquiry, it would therefore be in the spirit of the inquiry and its recommendations.

6. Resource Implications

6.1 If we were to offer to meet with all service user complainants we would need to:

- develop a defined process (considering aspects such as risk assessment);
- ensure appropriately trained staff are readily available (this may mean that new posts will be need to be created, recruited and trained); and
- ensure sufficient meeting room space is readily available.

6.2 Given the number of fitness to practise concerns we receive from service user complainants (in 2012/13 we received 634 in total) all the above will have significant cost and resource implications.

6.3 The process may also add to the length of time of an investigation.

7. Conclusion

7.1 At this stage, we will not start (or pilot) to offer all service user complainants the opportunity to meet with us as part of the fitness to practise process, for the following reasons:

- the considerable resource implications;
- the Clywd and Hart recommendations are not directly relevant to us;
- the GMC service is a pilot; and
- we currently have processes in place to meet with complainants who have accessibility problems.

7.2 However, we will review our current processes to meet complainants who have accessibility problems in light of the Clwyd and Hart review.

7.3 We will also re-review this topic once the outcome of the GMC's evaluation of its pilot is known (it is anticipated the pilot will finish in March or April 2014) and once we receive the Patients Association's report on our fitness to practise processes following the peer review in May 2014.