NHS CONFEDERATION MEMBER BRIEFING

Government's full response to the Francis report

Many of the measures included in today's report, 'Hard Truths: the journey to putting patients first', have already been announced. Our briefing below highlights key developments.

SUMMARY OF GOVERNMENT'S FULL RESPONSE

Secretary of State, Jeremy Hunt: "Today's measures are a blueprint for restoring trust in the NHS, reinforcing professional pride in NHS frontline staff and above all giving confidence to patients that after Mid Staffs the NHS has listened, the NHS has learned and the NHS will not rest until it is delivering the safest, most effective and most compassionate care anywhere in the world."

Shadow Health Secretary, Andy Burnham: "Patients and their families must always, as Francis recommends, be the first priority for the NHS....We have repeatedly warned the Government about nurse numbers falling to dangerous levels. This new focus on recruitment is overdue but it shouldn't have taken this long and it won't be enough to repair the damage of three years of falling nurse numbers on David Cameron's watch."

KEY DEVELOPMENTS

1. Regular publication of patient safety data
2. Statutory duty of candour on organisations and professional duty on individuals
3. Greater senior involvement in complaints handling
4. Guidance and tools for setting staffing levels and regular publication of actual levels
5. Fit and proper persons test for Board members and greater performance management of very senior managers
6. A new offence of wilful neglect, applicable to individuals and to organisations
7. A 'Clinical Bureaucracy Index' for Trusts and Concordat between national bodies to reduce bureaucracy

OUR REACTION

NHS Confederation director of policy, Dr Johnny Marshall said:"Today's response by the Government to the Francis Inquiry report sends a clear message to leaders in the NHS to continue with vigour the work already started to promote improvements and innovation which ensures a transparent and open culture with patient safety and wellbeing at its heart".

For our press statements in full click here and for links to our Challenging bureaucracy report, associated animation and video please click here.

For more information please contact Jenny Ousbey on 020 7799 8655 or email jenny.ousbey@nhsconfed.org
OUR RESPONSE IN DEPTH

A summary of the key areas addressed in Hard Truths is detailed below, alongside our reaction to the Government’s proposals.

**Patient safety and safe staffing levels**

- Patient safety data to be made more accessible to the public, with NHS England to publish 'never events' data quarterly with immediate effect, and monthly by April 2014
- NICE guidance and tools on setting safe staffing levels, with Trusts to publish ward-level information on staffing each month and Boards to review every six months. Similar tools will be developed for non-acute settings
- Staffing levels will be a core element of the CQC’s registration regime

We welcome a focus on patient safety and measures to spread best practice following publication of the Berwick report. Information and transparency can be a powerful tool to drive improvement, as long as data is presented in a way that is meaningful to staff and to the public.

On staffing levels, we support the development of evidence-based tools and guidance, and are pleased this approach recognises the need to allow flexibility at a local level to tailor teams in the way that best fits patients’ needs. Many trusts already publish staffing levels, and we support steps being taken to ensure greater transparency and the reassurance this will give to patients and carers.

With staffing levels due to be included in the mix for CQC inspections, we would want to ensure that our members are not penalised for being open and honest over staffing levels, and that the inspection regime reflects the complexities of getting the right staff mix.

**Openness and transparency**

- A statutory duty of candour on every health and adult social care provider from 2014, and a professional duty of candour on individuals
- Government to consult on proposals for Trusts to reimburse a proportion or all of the NHS Litigation Authority’s compensation costs when they have not been open with patients or their families about a patient safety incident
- NHS England leading work with CCGs, HEE, staff and patients on ways to embed the NHS Constitution in everything the NHS does, while DH is working to increase its impact among the public

We welcome measures to make the NHS more open and accountable and absolutely support a duty of candour at an organisational level. It is important this is set at an appropriate threshold and we look forward to working with the Department as it develops regulations on this. We have always argued this duty should apply to organisations rather than individuals, because threatening individuals with legal action is not the right way to encourage them to speak out about failings. We

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are therefore pleased to see the distinction between the professional duty on individuals and the statutory duty on provider organisations.

We support the principle of openness behind the proposals that indemnity cover for compensation claims could be reduced or removed if a hospital has not been open with patients following a patient safety incident. However, we will need to look closely at the details to ensure that the process is fair and there are no unintended consequences.

The NHS Constitution is unique to our health service and represents a commitment to patients and staff to drive improvements. Used in the right way, it can help trigger a major cultural shift and we support efforts to make it more effective and accessible to staff and patients.

Complaints handling

- Hospitals to set out more clearly how to make a complaint
- Trust chief executives and Boards to take greater personal responsibility for complaints
- Detailed information on complaints and lessons learned to be published quarterly, and looked at by CQC. Complaints will be a key part of the new Chief Inspector of Hospitals’ inspections.
- DH and NHS England to assess how satisfied people are with the handling of their complaint, to enable comparison between hospitals.
- A review of PALS services in 2014
- The Department of Health will work with Action against Medical Accidents and NHS England to clarify that a threat of future litigation should not delay the handling of a complaint.

The Government is right to recognise the leading role chief executives and boards should play in creating the right culture to support feedback and ensuring processes are in place to support this. However, this approach must be embedded across the whole organisation. Every member of staff at every level needs to understand the importance of listening to patients and responding to their feedback - responding to concerns before they become complaints. There are many examples of good work being done on this across the NHS and we will work to share this good practice. As part of the Dignity Partnership with Age UK and the LGA, the NHS Confederation are doing work funded by the Burdett Trust aimed at helping nurses to better listen to older people and respond to their concerns.

Acting on complaints requires effective monitoring and joined-up data sharing arrangements to be in place across the NHS. We welcome meaningful transparency on complaints data but this should be balanced against the need to avoid undue bureaucracy and “tick box” exercises which do nothing to improve patient care.

Complaints systems, including PALS, must be clear and well signposted to patients. Commissioners as well as providers have a role in ensuring this is the case. Given the important role well-resourced PALS services play in helping patients access the complaints system, we welcome the review of their role. However, PALS services on their own won’t be able to create the required culture change across organisations. It is vital that trusts, their patients and commissioners take responsibility for putting effective systems in place themselves rather than relying on a centrally prescribed approach.

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Accountability

- Fit and proper persons test, regulated by CQC, for Board-level appointments in public, private and voluntary sector providers. NHS England will explore the development of parallel arrangements for CCGs
- NHS Employers to work with national bodies to develop guidance to support performance management of very senior managers in hospitals
- New criminal offence of wilful neglect applicable to individuals or organisations (Government to consult on proposals shortly)

Good leadership is essential for quality patient care and it is right that managers, just like clinicians, should face the consequences if they are not up to the job. However, as well as rooting out poor leadership, we need to highlight the good work that occurs every day, and recognise the challenges leaders face, particularly in the most troubled organisations. The detail of how a fit and proper persons test is to work in practice will be absolutely critical. We must avoid any increase in the ‘blame game’ which Robert Francis warned against. The turnover of chief executives in some particularly troubled organisations highlights the tendency to blame individuals working in deeply challenging systems and cultures, and impacts on patient care. These new measures must not allow the vilification of individuals for problems that are in fact systemic, and which require committed and sustained leadership to resolve. We will work with the Government to understand and influence what the fit and proper persons test will involve and how it will impact on Boards.

We support greater use of existing performance management tools and will work closely with NHS Employers as they develop guidance on this. We are also exploring how we might work with the Royal Colleges to support the NHS in embracing an ethic of shared, continual learning, particularly through peer support and review.

Key issues in Hard Truths previously announced

- Every hospital patient to have name of consultant/nurse responsible above their bed; named accountable clinician for care outside hospital
- Friends and Family Test to be extended to mental health, community and GP settings by end Dec 2014, and will cover all NHS services by the end of 2015
- Changes to CQC inspection regime, including expert-led inspections and Ofsted-style ratings
- DH and CQC developing and will be consulting on fundamental standards
- Changes to risk ratings, special measures and failure regime that will be reflected in the Care Bill

OUR BUREAUCRACY WORK

- Our Challenging Bureaucracy report was commissioned by the Secretary of State after Robert Francis QC’s report into the tragic events at Mid-Staffordshire hospital. Our report is

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about making data in the NHS work harder to improve patient outcomes, where staff are free to get on with caring for patients.

- In the report we make it clear that when collecting data in the NHS we must not only prove its value, but ensure it is used to prevent future failures in patient care. After major reforms made to the health service and the confusion that’s come with it, it’s more crucial than ever before to provide clarity on how we can reduce bureaucracy that is unnecessary, who is responsible for making that happen, and how we can squeeze the most value out of the data already in use.

- The 30 recommendations in our Challenging Bureaucracy report have been accepted by the Government and will be implemented by the various national bodies and the Health and Social Care Information Centre. Other work taking place on bureaucracy includes NHS England’s Clinical Bureaucracy Index to track how well trusts use digital technology in collecting information.