Written evidence submitted by the NHS Confederation to the Health Select Committee’s inquiry into complaints and raising concerns

March 2013

Executive summary

- Our members cannot afford to be complacent about complaints. Following the publication of the Francis Report there is both an obligation and an opportunity to make the NHS safer, more compassionate and fully accountable to the people it serves. It is essential we deliver a culture of openness and transparency in the context of the whole system. Everyone in the NHS, from ward level to board level, is responsible for improving NHS culture.

- Effective feedback and complaints systems are an integral part of an open and transparent culture in the NHS. We know that our members need to do better on this. Throughout our response we highlight the importance of using complaints as a mechanism that is central to an organisation's wider focus on the quality of care and services it provides. It is crucial that organisations encourage patients, their families and carers, and staff to share their comments and for NHS bodies to act on and learn from feedback. We are working to ensure this good practice is better spread throughout the system.

- Complaints certainly have their place in the system but this is part of a much wider transformation of culture to enable patients, their families and their carers to feel at ease and supported to raise any concerns they may have. The focus should also be on how to support staff to raise concerns and make them feel comfortable having both open and honest conversations with patients and acting on the feedback they receive. Our members will need to do more to ensure the right processes are in place to ensure that all patient feedback is always listened to and acted upon.

- Legislation is of course important but the Government and politicians need to recognise there is a limit to its ability to transform the culture of the NHS. A culture of openness and transparency will ultimately be driven at a local level and in an environment where patients and staff feel able and comfortable to raise concerns they may have.

- We believe the process for raising complaints is currently unclear and poorly signposted. The complexity of the new commissioning landscape and the diverse range of providers in the health system since the reforms has made it more difficult for patients to understand where they need to go and who they
need to talk to if they wish to raise a concern. It is vital that NHS England provides clear information to patients and the wider public about the complaints process.

- Overall we need to provide both the space and the time for this transformation of culture across the whole system to take place. This is part of the NHS Confederation's 2015 Challenge - aiming to secure the right environment for change to happen in the NHS.

1. Delivering openness in the context of the whole system

1.1 It is essential we deliver a culture of openness and transparency in the context of the whole system. Reporting on the Francis recommendations has focused in the main on its implications for the acute sector. This ignores the fundamental role - and significant scale - of care provided outside hospital, as well as the role of commissioners in the system. To achieve a fundamental cultural change, a common set of core values and standards must be shared throughout the patient journey and be workable at a local level. This applies to every part of the NHS - from community, acute, mental health, ambulance and independent sector providers to commissioners.

1.2 Each of these sectors has good examples of organisations with open cultures and the application of transparent arrangements. We need to make sure that it’s the norm for our members to use feedback and share best practice if we are to see transparency drive wholesale improvements to patient care.

1.3 We strongly urge the focus to be on how to train and support staff to feel at ease having open and honest conversations with patients, their families and their carers and acting on this feedback. Our members will need to do more to ensure the right processes are in place to ensure that all patient feedback is always listened to and acted upon. NHS Employers, who have also submitted evidence to this inquiry, can provide more intelligence in this area.

1.4 We support the principle of having a duty of candour for organisations providing NHS care as it can help drive improvements, but we recognise the limits of legislation. On its own a duty of candour won’t drive the right culture of openness in NHS organisations. Securing this will require a range of measures, including strong and supportive leadership, effective staff engagement, and importantly an environment where staff feel confident to raise patient safety concerns across the whole system.

1.5 In addition, a valuable complaints system requires effective monitoring arrangements and joined-up data sharing to be in place across the NHS. Information about complaints should be shared across providers,
commissioners, regulators and Healthwatch organisations. The NHS Confederation believes the newly established Quality Surveillance Groups (QSGs) can play an important role in this by sharing intelligence and identifying patterns in complaints data. They act as a virtual team across a health economy, bringing together organisations and their respective information and intelligence gathered through performance monitoring, commissioning and regulatory activities. Some of our members have indicated that could play a valuable role in bringing the whole system together to share information.

1.6 However, with this in mind we cannot increase the bureaucratic burden on NHS staff and organisations. As highlighted in our report *Challenging Bureaucracy*, which was commissioned by the Secretary of State for Health, it is about getting the most value out of the data we already have.

1.7 Ultimately, as this is part of a wider transformation of creating a more open and transparent culture across the whole NHS, it is not something that will happen overnight. Factors such as a strong and supportive leadership, effective staff and patient engagement, and an environment where both staff and patients feel safe and confident to raise patient safety concerns, will take time to embed across the whole health care system. Overall we need to provide both the space and the time for this transformation of culture to take place. This is part of the NHS Confederation's 2015 Challenge - aiming to secure the right environment for change to happen in the NHS.

2. Complaints as a wider focus on quality

2.1 Complaints are an important source of feedback, which can and should be used positively and constructively to improve services. Changing culture and attitudes so that feedback is valued is fundamental to improving services and patients’ experiences of care. We know that our members need to do better on this. Many patients don't wish to make a formal complaint but rather raise a concern and see action taken. The culture of the NHS needs to change to enable patients and staff to feel comfortable to do this.

2.2 We agree with Robert Francis' conclusion that the current system focuses too much on complaints and not enough on opportunities to make comments and suggestions in a safe and comfortable environment. Organisations need to encourage patients, their families and carers to share their comments, good and bad, and to act on feedback before concerns escalate into formal complaints. Recognition of the importance of getting the initial complaint handling right is essential. Evidence from the Parliamentary and Health Service Ombudsman shows that if something goes wrong with their care or

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treatment most people simply want an apology, an explanation of what went wrong and an assurance that the problem will not reoccur.

2.3 It is important to emphasise that the volume of complaints received by an organisation is not necessarily an indicator of that organisation's quality. While a high number of complaints might never be considered a good thing, it can be a reflection of an accessible complaints system or an open culture in an organisation. The same can be said for organisations that receive a small number of complaints; rather than illustrating the excellent service they provide it could be as a result of not having a system in place that supports and encourages staff and patients to raise any concerns they may have. Therefore, an overly simplistic focus on the number of written complaints should not be allowed to undermine the innovation and good work being carried out to improve the NHS' approach to complaints handling.

2.4 Through our joint Commission on Improving Dignity in Care, in partnership with the LGA and Age UK, we have highlighted the importance of staff both listening and responding to patient feedback. Our Delivering Dignity report recommended that: "Hospitals and care homes must put in place mechanisms to solicit extensive feedback from older people, their families, carers and advocates – and must act upon it". Following this work, we have been commissioned by the Burdett Trust for Nursing to develop a two-year project to work with patients and nurses to support them to listen to and act on feedback.

2.5 Evidence has indicated the NHS still has a long way to go to improve this aspect of patient care. The Care Quality Commission's (CQC) acute inpatient survey, published in April 2013, found that 86% of older patients were not asked for feedback about the care they received during their stay in hospital. It also found that they are reluctant to give honest feedback and sometimes feel they are not taken seriously when they do.

2.6 Nevertheless, it should be noted that there are NHS organisations that are working hard to improve and act on the growing need to be open and transparent. The recently published NHS staff survey showed 68 per cent agree that patient care is their organisation’s top priority, up from 62 per cent in 2012, and 71 per cent were confident that their organisation would act on patient concerns, up from 67 per cent in 2012. While there is still work to be done to improve the quality of care patients receive, the positive trend in these areas is to be welcomed and reflects the efforts being made by our members.

2.7 As we have already stated, it is essential staff feel able to raise concerns and it should be recognised that our members have worked hard to create a

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climate where this happens. It is encouraging that over 90 per cent of respondents to the staff survey knew how to raise a concern and most felt confident to do so.

3. Complaints handling in the reformed NHS

3.1 We believe the process for raising complaints is currently unclear and poorly signposted. We are concerned there is a significant risk that the increased number of commissioners since the reforms, and therefore complaints handlers, have made it more confusing and difficult for patients to complain to their commissioners about services they have received, and that their reduced management capacity will make it more difficult for commissioners to respond effectively. We recommend that it is vital that NHS England provides clear information to patients and the public about its complaints process.

3.2 While complaints procedures and the Patient Advice and Liaison Service (PALS) remain largely unchanged within NHS provider organisations, we are concerned that the complexity of the new commissioning arrangements introduced by the Health and Social Care Act can leave patients confused about where to complain if they do not wish to do so directly to their provider, or if their complaint involves more than one organisation. We expressed these concerns to the Health Select Committee in a submission to their last inquiry and it is important that these issues are addressed whilst taking into account local health economies.

3.3 In the new system Clinical Commissioning Groups (CCGs) are now responsible for commissioning the majority of secondary care, community services and mental health services in their local area. The NHS Confederation supports the autonomy of CCGs, who should be able to decide on the services they provide, including their advice and complaints services, based on what is locally appropriate. Nonetheless, it is essential that changes in advice and complaints services are clearly communicated to patients and the public, and, wherever possible, patients and the public are involved in decisions about service changes.

3.4 We fed in to the recent review by the Rt Hon Ann Clwyd MP and Professor Tricia Hart into how the NHS handles complaints and welcome the subsequent report, *Putting Patients Back in the Picture*. The report touches upon the role of CCGs in helping to reflect a changing attitude towards complaints handling. We have previously voiced our concern that CCGs’ capacity to monitor the quality of services and use intelligence about complaints to inform their commissioning decisions is significantly reduced from that of their predecessor organisations. It is important to recognise that
CCGs are relatively new bodies dealing with a number of competing priorities, and have much smaller management teams than PCTs.

3.5 We are concerned that in terminating the nationally held Independent Complaints Advocacy Service (ICAS) contracts, there has been a loss of specialist advocacy services. Specialist independent advocacy services to help complainants raise their concerns can be beneficial to both the patients and the organisation providing care, particularly in helping to clarify the concerns and expectations about what should happen and when. While we welcome the government's recognition that local authorities should decide who they commission local NHS advocacy services from, we are concerned that the funding allocated to local authorities for these purposes is not ring-fenced, which could lead to variation in the quality of services across the country. Advocacy services should be a priority and information about services must be accessible and easy to understand. It would be useful to have a better understanding of what these services now look like.

3.6 Local Healthwatch organisations are also expected to have an important role in relation to monitoring complaints, most importantly in supporting patients, their families and carers to voice any concerns they may have. However, although the increase in patient choice and a greater diversity of NHS providers is to be welcomed, this might make it difficult for Healthwatch to gather comprehensive information on complaints about the services that local residents use. Without such information, local Healthwatch is unlikely to be able to exercise effective scrutiny of complaints. Healthwatch is an important part of the system, and local Healthwatch bodies must be sufficiently resourced to deliver what they are being asked to do.

About the NHS Confederation

The NHS Confederation represents all types of organisations that commission and provide NHS services. It is the only membership body to bring together and speak on behalf of the whole of the NHS. Our members include acute trusts, clinical commissioning groups, community health service providers, foundation trusts, mental health providers and a growing number of independent and voluntary sector healthcare organisations.