Department of Health consultation on Strengthening the NHS Constitution

1. I write with regard to the Department of Health consultation on Strengthening the NHS Constitution.

2. The Royal College of General Practitioners is the largest membership organisation in the United Kingdom solely for GPs. Founded in 1952, it has over 46,000 members who are committed to improving patient care, developing their own skills and promoting general practice as a discipline. We are an independent professional body with enormous expertise in patient–centred generalist clinical care. Through our General Practice Foundation, established by the RCGP in 2009, we maintain close links with other professionals working in General Practice, such as practice managers, nurses and physician assistants.

3. The College welcomes the opportunity to respond to this consultation. In general, though we have a degree of scepticism about the effectiveness of the role of the Constitution in raising standards in the NHS, most of the amendments proposed here are reasonable. We have answered the specific questions below, but our contributors have also suggested a couple of areas for possible future development.
4. It is noted, for example, that the Constitution is centred on the rights and responsibilities of the individual patient – which is obviously how it will most likely be used by patients to assess the service they receive. However, we would argue that much more should be made of the NHS’s role in providing whole population healthcare. In a time when clinicians will also be service commissioners, and when pressure on resources means that difficult decisions about prioritisation, which may well affect some individuals adversely, need to be made more often, this whole population approach needs to be considered as part of the NHS Constitution.

5. It is also our impression that less attention is given than might be to safety – both safe patient care and safe conditions for staff. This is something that might be worthy of consideration for future revisions.

**Patient involvement**

**Q1. What are your views on the proposed changes to strengthen patient involvement in the NHS Constitution?**

The RCGP wholeheartedly agrees with the principle of putting patients at the heart of everything the NHS does. We also support any developments that help individuals effectively to manage their own care, and the principle of shared decision-making between patients and clinicians – which we would define as follows:-

‘a process in which clinicians and patients work together to select tests, treatments, management or support packages, based on clinical evidence and patients’ informed preferences. It involves the provision of evidence-based information about options, outcomes and uncertainties, together with decision support counselling and systems for recording and implementing patients’ treatment preferences.’

We have discussed issues around patient choice in the past, not least in our response to the Department of Health consultation ‘No Decision About Me, Without Me’ – we certainly support patient involvement in choices about their healthcare, but this needs to be done in a way that guards against an increase in health inequalities and takes into account the inevitable constraints that exist on resource and capacity.

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1 Coulter A, Blog – Please stop muddling shared decision-making and provider choice (1st June 2012) - http://www.kingsfund.org.uk/blog/decisionmaking.html

2 RCGP, Response to DH Consultation ‘No Decision About Me, Without Me’ (2012)
We also fully support the principle of patient and carer involvement in decisions about end-of-life care, and have given a great deal of consideration to this area.3

The amendment around offering patients a written record of their care plan is also sensible. As observed by members of our Patient Partnership Group, the consultation room can be a stressful or emotional place for a patient, and it may not always be easy to recall what has been agreed.

Feedback

Q2. What do you think about our proposal to set out in the NHS Constitution the importance of patient and staff feedback towards improving NHS services?

Of course it is right that NHS organisations should encourage and pay attention to feedback from patients and staff. However, it is important that feedback be facilitated in a way which will result in positive change and not defensive medicine. There is a perception that current approaches to complaints may be leading to an increase in litigation. Efforts should also be made to seek feedback that identifies what does work well, so that success can be shared.

Duty of Candour

Q3. Do you agree with, or have any concerns about, amending this pledge to make it more specific as suggested?

We support the principle of openness when mistakes happen, and the commitment included in the Constitution is not unreasonable. That said, we have expressed some concerns about the contractual imposition of a Duty of Candour – arguing that it is not clear that it will be any more effective than the professional duty expressed in documents such as the GMC’s Good Medical Practice, and that without strong protections, it may place whistle blowing staff in a more invidious position than before. Please see our response to the 2011 consultation on the Duty of Candour4 for further detail. The RCGP


has also recently released a position statement on whistle blowing\(^5\), which will be of interest in this respect.

**Making every contact count**

*Q4. What are your views on including in the NHS Constitution a new responsibility for staff to make ‘every contact count’ with the aim of improving health and wellbeing of patients?*

In our view the key word in this pledge is ‘appropriate’. Of course GPs in particular have an important role in their consultations with patients to ensure that they take the opportunity to support patients’ health and wellbeing and encourage healthy lifestyle choices. There are concerns however that, if not appropriately implemented, this approach could give rise to a tickbox culture where patients may feel nagged about their lifestyles, to the ultimate detriment of the GP-doctor relationship. If this is to be avoided, doctors must remain free to use their judgement as to when it is appropriate to offer lifestyle advice and support.

**Integrated care**

*Q5. Do the proposed changes to the NHS Constitution make it sufficiently clear to patients, their families and carers how the NHS supports them through care that is coordinated and tailored around their needs and preferences?*

We regard the development of more integrated care as an important priority for the NHS in the wake of the current changes throughout the healthcare system in England. We have given considerable attention to this, and in 2012 published a policy report\(^6\). In this we describe our vision for integrated care:-

> In our view, successful integration care would ensure:
> - Patients are much less aware of the organisational boundaries between services;
> - Patients feel in control of their care and empowered to share decisions about it;
> - Patients are fully aware of their care plan and where they are at every step of the process;
> - They experience transfer from one service to another as straightforward and timely, within both health and social care;


Clinicians and other staff at all stages have the necessary information about the patient and care is therefore tailored to the patient’s precise needs;

- The patient experience is better and patient safety and health outcomes are also improved;
- Better outcomes and quality of care for patients with multi-morbidity;
- A reduction in health inequalities as the most vulnerable patients receive better access to holistic person centred care.

Integrated care would also be assessed on its more cost-effective use of resources, since:

- Patients would be far less likely to be referred for unnecessary treatment;
- Better use of information would ensure that conditions could be managed with fewer visits to secondary care;
- Resources would used more efficiently with less duplication;
- Patient care would be delivered in the community, or even at home, wherever possible, and there would not be incentives in the system to stop this happening;
- Care would be delivered by the most appropriate person in the most appropriate setting at all times.

We would expect that this would result in greater satisfaction for clinicians and other care staff, as:

- They would waste less time in duplication of information and chasing referrals;
- They would have better communication with colleagues in other areas, so that there are shared goals rather than a silo mentality as so often at present;
- There would be greater opportunities for shared learning and development.

Given all this potential that we see for integrated care, it seems a shame that the additions to the Constitution are very scanty in this respect.

**Complaints**

**Q6. Do you think it is helpful for the NHS Constitution to set out these additional rights on making a complaint and seeking redress?**

It is right that patients should be made aware of their rights around complaints – whether the NHS constitution is the most effective place to do so may be another matter. As the recent CQC consultation on their strategy indicated, there is some confusion amongst patients about complaints processes in the NHS. This should be resolved and clearly communicated to patients, in a format less time-consuming than the Constitution document.

**Q7. Do the additional new rights make the complaints process easier to understand and make clear to patients what they should expect when they make a complaint?**
Yes, though as above thought should be given as to how to communicate this information to patients more effectively.

**Patient data**

Q8. Do the proposed changes to the NHS Constitution make clear how the NHS will safeguard and use patient data?

Yes, they do. The RCGP is committed to the effective but safe use of patient data, and these pledges are important in communicating the reality of how data is used to patients.

**Staff rights, responsibilities and commitments**

Q9. Do you agree with the proposed changes to the wording of the staff duties and the aims surrounding the rights and responsibilities of staff? What do you think about the changes to make clear to staff around what they can expect from the NHS to ensure a positive working environment?

The principles set out here are very much to be welcomed. It is clear that staff who are valued and who receive appropriate education and training are better able to provide services to patients with the right level of care and commitment. The mention of a ‘supportive open culture’ may also be linked to our earlier comments about whistle blowing. It is good that these principles are included in the constitution – but more important to ensure that they are actually enacted ‘on the ground’, rather than being seen as principles to which lip-service only is paid. Currently, in some parts of the NHS, morale is low with staff feeling under pressure and uncertain about the future – they need to see these principles put into action.

**Parity of esteem between mental and physical health**

Q10. Do you agree with the wording used to emphasise the parity of mental and physical health? Are there any further changes that you think should be made that are feasible to include in the NHS Constitution?

The wording is appropriate. Given the importance of this issue, however, it is a shame that the opportunity is not taken to reinforce the point elsewhere in the document.

**Dignity, respect and compassion**

Q11. What are your views on the wording used to highlight the importance of ensuring that the tenets of dignity, respect and compassion are sufficiently represented in the NHS Constitution?

We note the wording here, both in section 2b on treating staff with respect and section 3b on ‘treating every individual with compassion, dignity and respect’, and agree that
these points are very welcome. This approach is reflected in the new Nursing Vision document ‘Compassion in Practice’.

Q12. Do you agree with the suggestion of including a new pledge for same sex accommodation?

There is still concern that this will not always be 100% possible in certain hospital settings – such as coronary care units and emergency assessment units. A firm pledge of this kind may go further than the NHS is able to achieve.

Local authorities’ role

Q13. Do the proposed changes to the NHS Constitution make it clear what patients, staff and the public can expect from local authorities and that local authorities must take account of the Constitution in their decisions and actions?

The changes make clear enough what people’s rights are with regards to local authorities – but they don’t clarify the actual functions of local authorities in the new health system nor how they will interact in practice with medical services. It seems likely that there will be some degree of confusion, from patients, staff and public, in this respect until the new system is securely established.

Raising awareness and embedding the Constitution

Q14. Have you seen further examples of good practice in raising awareness and embedding the NHS Constitution that should be taken into account in these plans?

No.

Q15. Do you have further recommendations for re-launching, rolling out and embedding the Constitution from next spring?

The Constitution needs to be made available in summary form, in both electronic and hard copy versions, and distributed through GP surgeries, hospital outpatient departments, citizens advice bureaux and elsewhere.

Giving the Constitution greater traction

Q16. To help shape our future consultation, do you have views on how the NHS Constitution can be given greater traction to help people know what they should do when their expectations of the NHS are not met?

In the wake of the Mid-Staffordshire report, there is likely to be much publicity around issues such as patient complaints and whistle blowing. This might well be a very appropriate time to promote the positive messages of the Constitution.
Equalities

Q17. How can we ensure the NHS Constitution is accessible and useable to individuals of different backgrounds and to different sections of society?

There will need to be versions suitable in style, format and wording to meet the needs of all kinds of service users. Where patients have difficulty understanding their rights it may be necessary to demonstrate that an advocate has read the Constitution and agrees to act on the patient’s behalf. Information should be available in all places where patients encounter NHS services. Staff should have training to prepare them for new expectations and enquiries that the revised Constitution and attendant publicity will generate.

Q18. Are there any ways in which the proposed changes set out in this consultation could have an adverse impact, directly or indirectly, on groups with protected characteristics? If so, how?

If the necessary energy and investment is not devoted to communicating the details of the amended Constitution to groups with protected characteristics, then of course they will be disadvantaged.

General

Q19. Do you have any further comments about our proposals for strengthening the NHS Constitution?

No.

6. We gratefully acknowledge the contributions of members of the RCGP Council, General Practice Foundation, Centre for Commissioning and Patient Partnership Group in formulating this response.

Yours sincerely

Professor Amanda Howe MA Med MD FRCGP
Honorary Secretary of Council