

8<sup>th</sup> July 2014

## THE NHS COMPLAINTS PROCESS

### National Assembly for Wales

#### Health and Social Care Committee: Inquiry into the NHS complaints process

Terms of reference: to consider the effectiveness of arrangements for handling complaints in NHS Wales, and what can be learnt from the recent reviews of complaints handling in Wales and England.

#### RESPONSE:

BMA Cymru Wales welcomes the opportunity to give evidence to the Committees' inquiry into the effectiveness of the NHS complaints process in Wales.

We consider this a very timely inquiry. Due in part to the publication of reviews such as Francis, Berwick, Keogh, Andrews, Evans and others but also due to the fact that concerns about the lack of a clear and effective process – which is responsive, clear, and transparent – is something that our Members have raised with us for quite some time.

In responding to such concerns from members, and as part of our efforts to ensure that we are offering accurate representation, BMA Welsh Council held a recent policy day with doctors from across Wales on the issue of raising and reporting concerns in the workplace for staff and patients. As a result Welsh Council has developed a booklet reflecting what was raised and what Members agreed as recommendations for a way forward. We will be sharing this with members of the Health and Social Care Committee as soon as it is available.

Whilst we have been supportive of the Putting Things Right agenda and continue to support its objectives, it is clear that our members have little confidence in the current process for reporting and handling concerns in NHS Wales. They report that they often feel unable to raise a concern themselves without reproach, and that there is confusion about the method to use and a blurring of responsibility within organisations in responding and handling complaints. They also report that as they move between health boards that different arrangements appear to be in place.

If professionals working within the NHS are confused about the process we can only assume that patients and relatives on the outside and on the receiving end of these services are even more at a loss as where to go for help in raising issues of concern or complaint.

**Ysgrifennydd Cymreig/Welsh Secretary:** Dr Richard JP Lewis, CStJ MB ChB MRCP MFFLM Dip IMC RCS(Ed) PGDip FLM



It is apparent that more needs to be done to raise awareness of the Putting Things Right arrangements to the public and to staff. A high number of our GP members report that the PTR process is very secondary care focused and not sufficiently open to primary care professionals.

Community Health Councils certainly need to become more visible to the general public and further empowered in executing their advocacy role. We also believe that there also needs to be greater understanding of responsibilities within organisations, and that such organisations need to take ownership of a complaint as soon as it is made. There also needs to be a consistent approach to this applied across Wales.

Doctors have a clear professional duty to report concerns if they feel that patient safety is at risk. Moreover, they have a responsibility and a pivotal role to play in ensuring that any concern they raise (or are raised with them) are taken seriously and acted upon. Despite this, we know that doctors, particularly junior doctors can be fearful about the personal repercussions of speaking out. The BMA offers members robust guidance on how to go about reporting concerns in the workplace.

An effective complaints process offers enormous potential to contribute to the delivery of effective integrated healthcare in Wales and continual service improvement - through openness, learning and data collection and by the provision of considered and timely feedback. Unfortunately, the current process falls far short of what is required to meet this required objective for both staff and patients.

Moreover *how* complaints are handled is a major contributor to the internal culture of NHS Wales. It is clear that this issue of how a complaint is handled can sometimes break trust to a greater extent than the actual issue at the centre of the complaint.

In this way it is important that 'process' is not the only element to be considered here. While it is important to have a robust policy and framework in place, the matter of how it is applied locally is key to successful delivery. Therefore how staff and patients or their relatives are encouraged and supported to raise concerns, and how they are communicated with, also needs to be part of any review of process or structure.

There is thus both an organisational and an individual element to this.

The report by Keith Evans on concerns and complaints handling<sup>1</sup> made similar reference: *"At the root of many of my reflections will be focusing on some of the basics; for example, despite knowing the importance of communication, hearing examples of getting this wrong both in terms of care and complaint response. It is reassuring to state that in my experience these can and must be addressed, but it requires us to address the customer care environment and culture within the NHS alongside any improvements I suggest to the complaints process"*.

It is clearly apparent that for any process to be effective it requires a culture of no-blame, one which is open and transparent, one with clear patient-centred leadership and one which provides feedback and focuses on learning as part of the service improvement and efficiency agenda. This should be a routine and everyday part of clinical governance; and not just a matter of compliance. Of course we accept that the current culture is also influenced by other factors – such as pressure to meet short term financial targets, overstretched services and a high number of staffing vacancies.

The Andrews Report<sup>2</sup> spoke of a culture of *"learned-helplessness"* it also said that variation in care resulted from *"an apparent failure to act or provide feedback on reports of problems or incidents."* BMA members have reported similar experiences in Wales: that when they do report concerns that they are not told what has been done in responding to it or in terms of investigation - and that nothing appears to

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<sup>1</sup> Evans, Kieth (2014) A review of concerns (complaints) handling in NHS Wales "Using the Gift of Complaints" p4

<sup>2</sup> Andrews, June. (05/2014) 'Trusted to Care' An independent Review of the Princess of Wales Hospital and Neath Port Talbot Hospital at Abertawe Bro Morgannwg University Health Board, p25.

change. We have heard from members who have been forced to report low-level concerns outside of local processes because those local processes had failed to be responsive.

We have also heard that often after raising concern or reporting a complaint doctors were faced with what they felt was a defensive reaction from managers and were left feeling isolated, powerless and hesitant about raising issues in the future.

Disconnection between staff and managers is a real issue in many areas of service delivery – patients tend to fall between the ‘them’ and the ‘us’ of this mentality. This disconnection is a serious barrier to service improvement and therefore to reducing the number of complaints received. Not to mention being financially inefficient. Front line staff should feel empowered to act, respond or escalate concerns raised with them or be confident to raise their own concerns if they need to. The Evans report recognises this well on page 63: “Taking ownership of the complaint is always better than denying it or trying to pass the blame further up or down the line”. The report also recognises the unnecessary complexity of management systems and processes in the NHS and suggests several ways of simplifying this in order to streamline how complaints and concerns are dealt with. Healthcare professionals have a duty to be part of bringing this change about; therefore engagement between clinicians and managers is a large part of this agenda and a central requirement of the positive cultural change for which we and many others advocate.

“Using the Gift of Complaints” is a very pertinent title for Keith Evans’ recent report. It mirrors our belief that complaints should be seen as opportunities for learning and improvement. Since many complaints can be resolved locally there needs to be a mechanism to capture, learn from and share such experiences and outcomes – ranging from such lower-level concerns up to higher-level complaints. Health boards should welcome and consider (listen and learn) both good and bad feedback, and in this way encourage staff to raise concerns in the workplace.

From a staff-side view our members feel that the current ‘whistleblowing’ policy is not fit for purpose and undermines the interrelated intentions of Putting Things Right. Subsequently, we believe that greater acknowledgement of the inter-play between staff and patient concerns would help provide a more consistent approach and much needed clarity around process.

Although we have not had opportunity to widely consider the Evans report or recommendations with our membership many of the observations in this report chime with BMA Welsh Councils ongoing work on raising concerns in the workplace and the need for positive cultural change across the NHS in Wales.

We are grateful for the opportunity to contribute to this important inquiry.